

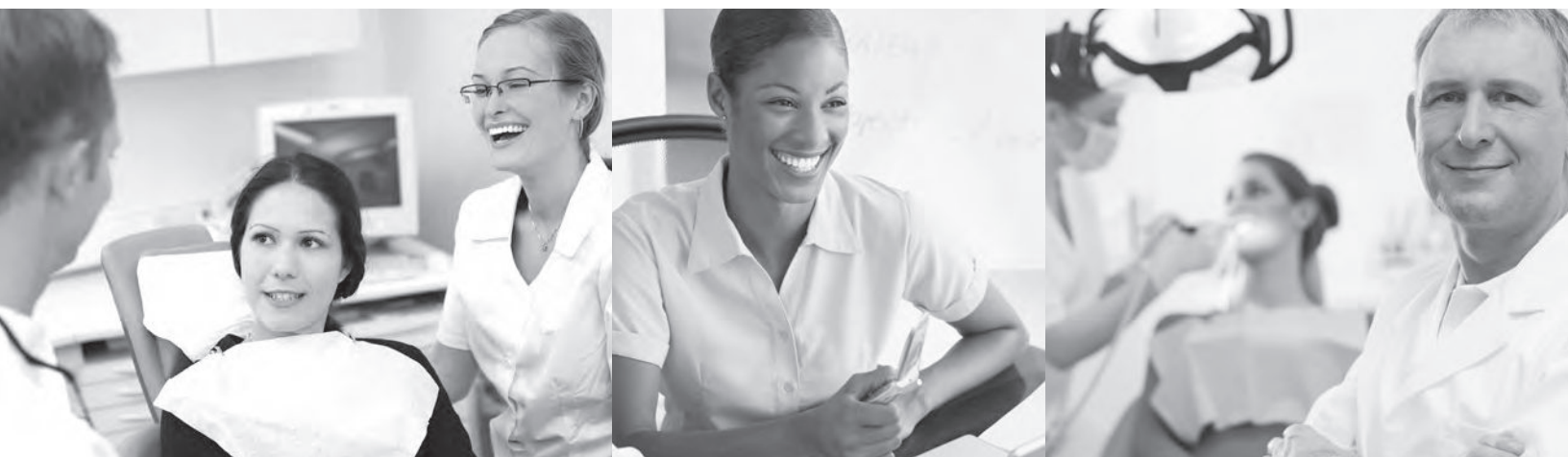
The ADA Practical Guide to Creating an Employee Office Manual



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The ADA Practical Guide to **Creating an Employee Office Manual**



Acknowledgements

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The Council on Dental Practice Mission Statement

The mission of the Council on Dental Practice is to recommend policies and provide resources to empower our members to continue development of the dental practice, and to enhance their personal and professional lives for the betterment of the dental team and the patients they serve.

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CD-ROM Users Guide

The entire content of the *ADA Practical Guide to Creating an Employee Office Manual* is on the enclosed CD-ROM. This includes a PDF of the book, as well as a Microsoft Word document you can use to customize and print your own employee office manual. Separate Microsoft Word documents containing the policies and forms from this book are also on the CD-ROM.

CD-ROM Compatibility with Your Computer

This CD-ROM will run on computers with Windows 2000 with Service Pack 4 and newer versions. *The ADA Practical Guide to Creating an Employee Office Manual* **cannot be installed** and you will need to reinsert the CD-ROM each time you run the program. The CD-ROM menu will only function on PCs or Macs running Parallels or a similar PC emulation program. If you are a Mac or P.C. user and do not run one of these programs you can still open the files directly from the CD-ROM via the CD-ROM directory. (See the “Starting the CD-ROM” section below.)

Documents on this CD-ROM are in either Adobe PDF or Microsoft Word format. To view them, you will need Adobe Acrobat Reader or Microsoft Word. The main menu of the CD-ROM has a link to download the software for free.

Starting the CD-ROM

Insert the CD-ROM in your computer’s CD-ROM drive.

- If you are using **Windows**, the menu may appear automatically after the title screen. If it does not, click on the Windows **Start** menu and select Run, and type in D:\EOM.exe (where “D” is your CD-ROM drive). The menu will appear. Just click on the document you would like to view.
- If you are using a Mac, double click on the EOM icon on your desktop. A window will open and you can double-click on either the PDF or the Word files to open the document in the file type that you prefer.

Menu Page

The menu page contains the sections of the book. Simply click on the item you’d like to review. The menu item *ADA Practical Guide to Creating an Employee Office Manual* contains the entire contents of the book in PDF format. The menu item **Forms to Customize** contains Microsoft Word versions of all the forms in this book. The menu item **Policies** contains Microsoft Word versions of all the policies in this book.

Word Documents

When a Word document is opened, it will be **Read-Only** because you will not be able to save the documents to the CD-ROM. You will be able to make and save changes to the document when you select the **Save As** feature and save it to a desired location such as My Documents. Please note that the Word Viewer will not allow editing of files.

Navigating PDF Documents

Once opened, the PDF file will look like the pages of *The ADA Practical Guide to Creating an Employee Office Manual*. You can turn on the Bookmarks feature of an open PDF document by clicking on the **Bookmarks** tab in the upper left corner. Each bookmark is a hyperlink to the corresponding section of the document. For your convenience, you can also click on the chapter titles or specific questions listed in the Table of Contents to be conveniently redirected to the page(s) where you will find the answers you need.

To get back to the Menu page, click on the **EOM icon** on the status bar at the bottom of the page, or close the Reader Window.

The PDF document on the CD-ROM is searchable. There are two main ways to locate a key word within the text of the document:

- To **Find** the next appearance of a term, hit Ctrl + F, type the search term and hit Enter. Or, choose **Edit** from the Menu bar, then **Find**.
- To **Search** for all instances of a term in the document, hit Shift + Ctrl + F and type in the text. This Search function also allows you to search for the term in other documents on the CD-ROM or your computer.

For help using the Adobe® Acrobat® Reader, open the reader and select **Help** from the top menu bar at the top of your screen. You can also visit the Adobe® website at www.adobe.com.

Printing Documents

All documents are printable, both the Microsoft Word the PDF documents. To print, simply click on the Print icon, or choose **File**, then **Print**.

Product Support

For additional questions about *The ADA Guide to Creating an Employee Office Manual*, contact the ADA Member Service Center at 1-800-947-4746.

Computer/CD-ROM Technical Support

For technical support regarding the CD-ROM, call the ADA Technical Support Center at 1-800-232-2165. Support is available Monday through Friday from 8:30 A.M. – 5:00 P.M. C.S.T.

Chapter 1

Employee Recruitment

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Chapter 1.

Employee Recruitment

A talented, motivated team is essential to a successful dental practice. Conversely, a troublesome team member can be very damaging to your practice. This chapter suggests how to find, interview and select the best people for your practice.

When you begin the recruitment process, check with a qualified attorney regarding applicable employment laws. Federal, state and local laws apply to every stage in the hiring process, and even an inadvertent or unintentional violation can lead to significant liability, not to mention expensive and time-consuming tasks necessary to defend against an employment-related claim. It is prudent to have an experienced employment lawyer review job descriptions, recruitment ads, application forms and other documents, and provide counsel on subjects such as appropriate interview questions in order to help your dental office avoid legal difficulties.

Learning Objectives

- **Define the job descriptions for potential new members of your team**
- **Identify resources for locating new office staff**
- **List various effective interviewing techniques**
- **Describe techniques used in the selection process**

Job Descriptions

Your first step in recruitment is to review or develop a job description. It should outline the duties of the position and the qualifications of the candidate.

An accurate job description is essential to selecting the most qualified applicants, and becomes the basis for your training program. Then, during your employee evaluation sessions, the job description is the yardstick by which performance is judged, giving clarity and consistency to your personnel management. It's also important to have on file for use every time you fill the position or create a similar position.

Don't forget to update these on an ongoing basis. If you give an employee a new responsibility, such as acting as the HIPAA Privacy or Security Official for your practice, it should be reflected in the job description.

Licenses and Your State Dental Practice Act

The Dental Practice Act of your state dictates which functions may be performed by dentists, dental assistants and hygienists. You may wish to request information about your state's statute from your state dental society. Additionally, a state-by-state summary can be found in the survey, "2010 Survey of Legal Provisions for Delegating Intraoral Functions to Assistants & Hygienists." Call the ADA's toll-free number 1-800-947-4746 or visit www.adacatalog.org to order this survey, which can help you write an accurate list of duties for your job descriptions.

Equally important is making sure your job candidates are properly licensed to work in the state in which your dental office is located.

Sample Job Descriptions

The following samples can help you customize job descriptions for your office. Add and delete duties from the sample job descriptions as applicable. For example, if your dental practice is not required to comply with HIPAA, you may wish to substitute duties necessary to comply with other applicable laws, such as state laws regulating the privacy of medical records, for the HIPAA-related duties in the samples.

Remember to check with your state's dental practice act regarding the allowable delegation of duties for dental assistants and dental hygienists.

A copy of the job description should be given to the employee upon hiring and another should be placed in the employee's file.

Remember to check with your state's dental practice act regarding the allowable delegation of duties for dental assistants and dental hygienists.

FIGURE 1.1 SAMPLE JOB DESCRIPTION: ASSOCIATE DENTIST

Associate Dentist (Employee)

Reports to: _____

PRIMARY RESPONSIBILITIES

Examine and diagnose patients of all ages. Review and interpret x-rays; remove tooth decay; fill cavities; place restorations; carry out extractions; repair fractured teeth; and provide other dental treatments as necessary. Distribute and explain patient education materials.

SPECIFIC DUTIES

Patient Management

- Diagnose and treat patients to achieve excellent results within estimated treatment time with maximum concern for patient comfort and respect
- Deliver the highest quality care to patients
- Present treatment plans to patients

Practice Management

- Manage and direct staff assignments and activities in accordance with office policy and applicable laws
- Know and follow dental office contingency plan

Practice Promotion

- Know and support the practice mission, long-term business plan, and short-term goals
- Develop specific approaches to attract a constant influx of new patients and retain patients of record
- Maintain good relationships with other professionals in the community

SUPERVISORY RESPONSIBILITIES

Staff Management

- Help recruit, interview, select and terminate staff members, as assigned
- Help resolve personnel issues within the office
- Be an active participant in team meetings

Education and Training

- Research computer software for the dental office and share with team
- Share information learned at seminars and meetings with team

PERSONNEL REQUIREMENTS

Education/Experience

- DDS or DMD degree from an accredited dental school
- Licensed to practice in state and meet other applicable state requirements
- Must not be excluded under the exclusion program for federal health care programs
- Must have training and experience in area of special interest

Interpersonal

- Display natural ability to discuss all dental needs with patients
- Be objective and pleasant
- Be able to work with staff and convey needs in a participatory manner
- Show inclination to work well in the community

FIGURE 1.2 SAMPLE JOB DESCRIPTION: BUSINESS MANAGER

Business Manager

Reports to: _____

PRIMARY RESPONSIBILITIES

Responsible for administering the day-to-day activities of the business office, including: management of the office practice management software and computer system, and the records of patients and staff; scheduling of patients; staff interviewing/dismissal; accounts receivable and payable; inventory control; and recall.

Know and support the practice mission, long-term business plan and short-term goals. Assist the dentist with other tasks as assigned.

SPECIFIC DUTIES

- Manage and direct staff assignments and activities, in accordance with office policy and applicable laws
- Understand and comply with dental office HIPAA compliance
- Manage compliance with OSHA, state and federal regulations
- Know and follow dental office contingency plan
- Stay current with trends, legislation and regulations in the dental profession
- Manage patient financial accounts
- Manage the hiring and ongoing performance of staff

Patient Management

- Oversee patient relations
- Receive patient complaints and respond as directed by the dentist
- Explain office policy to patients
- Monitor patient relations through periodic patient satisfaction surveys

Staff Management

- Assign, direct and manage staff duties, as directed by the dentist
- Determine staff schedules
- Coordinate staff hiring process (i.e., recruiting, interviewing, hiring, etc.)
- Orient and train new staff
- Train staff, including OSHA and HIPAA compliance
- Monitor staff performance
- Conduct staff and salary reviews
- Coordinate team meetings and morning huddles
- Engage in conflict resolution
- Arrange staff CE
- Make business travel arrangements for dentist and staff
- Support staff as needed (i.e., appointment scheduling, collections, insurance, etc.)

Records and State and Federal Regulations Management

- Ensure that HIPAA Notice of Privacy Practices is on display
- Securely store and handle records in compliance with HIPAA regulations
- Help implement state and federal regulations
- Arrange for OSHA and risk management seminars
- Maintain staff employment records
- Update and maintain employee office manual
- Help dentist draft office policy

Accounts Receivable and Payable Management

- Enter patient financial activity in computer

- Verify and record accounts receivable activity
- Prepare bank deposits
- Prepare statements
- Follow-up insurance claims
- Follow-up delinquent accounts
- Arrange payment schedules with patients
- Verify invoices with monthly statements
- Write checks as authorized and directed
- Balance bank statements
- Prepare materials for the accountant
- Review practice financial statistics regularly with dentists

Marketing and Public Relations Management

- Design marketing and promotional materials (print and electronic)
- Prepare dental office advertising/recruiting ads for new staff and publish as directed by the dentist
- Implement marketing strategies
- Coordinate event planning, conference travel, volunteering, mentoring programs, etc. as directed from time to time
- Assist with dental office facility management

PERSONNEL REQUIREMENTS

Educational/Experience

- High school diploma or equivalent
- Dental practice experience preferred
- Working knowledge of computers for word processing, insurance claims processing and records management (list computer software experience required including any specific dental software)
- Knowledge or experience in staff management

Interpersonal

- Excellent communications skills
- Team player
- Conflict resolution experience
- Customer service or patient relations experience
- Able to communicate all concerns to the dentist

FIGURE 1.3 SAMPLE JOB DESCRIPTION: DENTAL ASSISTANT

Note: Content and expanded functions may vary in accordance with state dental practice acts.

Dental Assistant

Reports to: _____

PRIMARY RESPONSIBILITIES

Responsible for assisting the dentist in the clinical treatment of patients

SPECIFIC DUTIES

Patient Management

- Greet patients when they sign in and monitor arrival time
- Set up treatment rooms for procedures
- Escort patients to treatment room
- Seat patients in treatment rooms
- Show care and concern, and help patients feel comfortable
- Obtain and review health histories according to office protocol
- Ensure patients are always attended
- Anticipate and assist dentist's needs
- Perform expanded functions and other tasks as assigned by the dentist
- Mix dental materials
- Ensure patients' questions are answered thoroughly before they leave
- Chart patients and record date, service rendered and any charges
- Escort patients from the treatment room
- Ensure proper treatment notes are recorded in patient's chart
- Perform clinical procedures as practice act allows and as directed by dentist
- Give patient instruction and demonstrate when necessary
- Monitor patient flow
- Notify Treatment Coordinator if a patient should be called in the evening after a difficult appointment

Treatment Room Management and Sterilization

- Keep dental units ready, stocked and clean
- Oversee cleanliness of the treatment room according to sterilization procedures
- Disinfect treatment rooms according to OSHA regulations
- Sterilize all instruments and handpieces according to OSHA regulations
- Keep trays, instruments and treatment room drawers organized
- Ensure that office sterilization procedures document is on display

- Promptly send out and monitor all dental laboratory cases
- Implement the preventative maintenance/cleaning schedule for dental equipment
- Maintain dental office emergency kits and nitrous and oxygen tanks
- Follow laboratory procedures according to office protocol

Records Management

- Securely store and handle patient records in compliance with state and federal requirements, including the HIPAA privacy and security regulations
- Accurately file patient information
- Arrange patient charts and radiographs for next day's appointments
- Track cases and referrals to and from other doctors
- Assist in the administration of the recall system

Inventory Management

- Monitor inventory and order dental office supplies as needed
- Ensure that treatment rooms are stocked at all times

Office Participation

- Help in other areas of the office when necessary (i.e., answering phones, unpacking supplies, completing insurance forms, moving former patient records, etc.)
- Be an active participant in team meetings
- Promote team concept by interacting with others in the office

PERSONNEL REQUIREMENTS

Education/Experience

- High school diploma or equivalent
- Graduate of accredited dental assisting program or dental assisting experience preferred
- Coursework in dental instruments and procedures
- Compliance with state dental practice requirements (i.e., X-ray requirements, OSHA training)
- Legible handwriting for notations in patient chart
- Computer skills (list computer skills required and any specific dental software)
- Commitment to CE for career development

Interpersonal

- Good interpersonal skills to maintain effective rapport with patients, dentists, other staff members and community
- Effective verbal skills to communicate with patients and staff

FIGURE 1.4 SAMPLE JOB DESCRIPTION: DENTAL HYGIENIST

Dental Hygienist

Reports to: _____

PRIMARY RESPONSIBILITIES

Responsible for providing hygiene treatment to patients

SPECIFIC DUTIES

Patient Management

- Review daily schedule with the administrative assistant for hygiene patients
- Work with administrative assistant to schedule hygiene patients with efficiency
- Review patient health and dental history forms and update as necessary
- Accurately chart each patient's periodontal health
- Perform thorough and gentle prophylaxis to patients
- Perform scaling, root planing and selective polishing for patients as appropriate
- Polish restorations
- Administer local anesthetics, if allowed by dental practice act
- Place medicaments subgingivally (under the gumline) for periodontal disease treatment
- Take radiographs of patients as prescribed by dentist
- Apply cavity-preventative agents, such as fluorides and sealants
- Communicate with patients in an understandable and professional way
- Check on patient comfort during treatment and help allay patient anxiety
- Accurately and appropriately record provided treatment
- Teach proper oral hygiene techniques to patients
- Counsel patients on oral health, including the role of nutrition
- Perform other tasks assigned by the dentist

Treatment Room Management and Sterilization

- Check treatment room for cleanliness and make necessary changes
- Check and turn on treatment room equipment
- Gather and review patient charts for the day
- Clean treatment room at the end of the day and turn off equipment
- Maintain a supply inventory for hygiene treatment
- Review, select and submit orders for patient education materials for the practice
- Submit supply orders to business manager once a month or as necessary
- Properly discard all disposable items from each visit
- Assemble soiled instruments and place in sterilization area

- Clean treatment room surfaces with disinfectant solution
- Pre-soak soiled instruments in a disinfectant
- Sort and package instruments by tray for proper sterilization
- Load, activate and vent the sterilization unit according to manufacturer's directions
- Store instruments and trays in appropriate places

Records Management

- Securely store and handle patient records in compliance with office policies and procedures and applicable legal requirements, such as the HIPAA privacy and security regulations
- Accurately record medical and dental histories
- Accurately file patient information
- Arrange patient charts
- Assist in the administration of the recall system

Office Participation

- Be an active participant in team meetings
- Promote team concept by interacting with others in the office

PERSONNEL REQUIREMENTS

Education/Experience

- Must be licensed to practice in state and meet other applicable state requirements
- Must have completed at least 2 years of post-secondary education from an accredited dental hygiene program
- Experience providing prophylaxis and taking X-rays
- Legible handwriting for notations in patient chart

Interpersonal

- Good interpersonal skills to maintain effective rapport with patients, dentists and coworkers
- Effective verbal skills to communicate with patients and staff

FIGURE 1.5 SAMPLE JOB DESCRIPTION: ADMINISTRATIVE ASSISTANT

Administrative Assistant

Reports to: _____

PRIMARY RESPONSIBILITIES

Responsible for maintaining appearance and order of dental office, patient scheduling and patient management

SPECIFIC DUTIES

Reception Management

- Open and close dental office according to office protocol
- Check the daily schedule for accuracy and provide schedule to dental team as appropriate
- Answer and respond to telephone calls with professionalism
- Review supplies for reception and provide order to business manager
- Maintain petty cash

Patient Management

- Maintain a professional reception area/office (organize patient education materials and magazines, straighten up the facility, oversee cleaning service schedule and duties, etc.)
- Greet and welcome patients and visitors to the practice
- Check in patients according to office protocol, verifying and updating health information
- Providing HIPAA Notice of Privacy Practices and documenting according to office policies and procedures
- Manage recall and inactive patient system
- Confirm upcoming appointments by telephone
- Schedule patients for efficient use of doctor and staff time
- Check patient back-up list to try to fill in cancellation and no-show appointment times
- Collect payment from patients at time of treatment
- Schedule follow-up appointments as directed

Records Management

- Gather and accurately record dental, medical and insurance information from patients
- Securely store and handle records in compliance with legal requirements, including HIPAA regulations
- Accurately file patient information
- Arrange patient charts and radiographs for the next day's appointments
- Track cases and referrals to and from other doctors

Insurance

- Keep patients' insurance information up to date
- Submit treatment plans for predetermination of benefits
- Prepare claim forms for patients with dental insurance
- Organize supporting materials for claim forms, such as radiographs or written narratives.
- Mail claim forms from office
- Assist in the resolution of problems with third-party payers

Billing

- Prepare billing statements promptly and accurately
- Mail billing statements as directed by the dentist
- Prepare and mail overdue account letters as directed by the dentist
- Telephone patients with accounts overdue
- Post checks received each day

Correspondence

- Sort, organize and distribute mail
- Prepare and send new patient and referral thank-you letters
- Prepare and send continuing care notices on the 15th of each month
- Prepare and send correspondence as directed by the dentist or office manager

Inventory Management

- Monitor inventory and order dental office supplies as needed
- Monitor and make sure all office equipment (copy machine, fax, phones, computer system, etc.) is functioning and properly maintained; follow up on staff complaints and submit appropriate repair requests

Office Participation

- Be an active participant in team meetings
- Perform other tasks as assigned by the dentist

PERSONNEL REQUIREMENTS

Education/Experience

- High school diploma or equivalent
- 2 years' office experience preferred
- Working knowledge of computers for word processing, scheduling, insurance claims processing and records management (list software experience required including any specific dental software)

Interpersonal

- Good interpersonal skills to maintain effective rapport with patients, dentists, other staff members and community
- Effective verbal skills to communicate with patients and staff

FIGURE 1.6 SAMPLE JOB DESCRIPTION: TREATMENT COORDINATOR

Treatment Coordinator

Reports to: _____

PRIMARY RESPONSIBILITIES

Responsible for new patients' smooth transition into the practice, existing patients' ongoing dental care, communication with patients during treatment, and communication with specialty offices

SPECIFIC DUTIES

Patient Management

- Greet new patients
- Pull X-rays as appropriate
- Review health histories
- Set up consultation room for consult appointments
- Maintain a professional reception area/office (organize patient education materials and magazines, straighten up the facility, report any larger maintenance issues to administrative assistant for follow-up)
- Send copy of patient record for consultation with specialists
- Arrange referral appointments and manage communications with specialty offices
- Securely store and handle patient records in compliance with legal requirements, including HIPAA privacy and security regulations
- Present treatment plans to patients
- Arrange payment plans with patients
- Call patients after a difficult treatment visit

Office Participation

- Be an active participant in team meetings
- Perform other tasks as assigned by the dentist

PERSONNEL REQUIREMENTS

Education/Experience

- High school diploma or equivalent; some college preferred
- Minimum 2 years' work experience in dentistry
- Letter composition skills
- Computer skills (including any specific dental software)

Interpersonal

- Good interpersonal skills to maintain effective rapport with patients, dentists, other staff members and community
- Effective verbal skills to communicate with patients

FIGURE 1.7 SAMPLE JOB DESCRIPTION: OFFICE MANAGER

Office Manager

Reports to: _____

PRIMARY RESPONSIBILITIES

Responsible for administering the day-to-day activities of the business office, including: patient and employee relations; staff interviewing/dismissal; management of marketing and communications efforts; ensuring regulatory compliance; staff training and motivation. Assist the dentist with other tasks as assigned.

SPECIFIC DUTIES

- Manage day-to-day operations of dental office
- Manage and direct staff assignments and activities, in accordance with office policy and applicable laws
- Manage compliance with OSHA, state and federal regulations
- Know and follow dental office contingency plan
- Stay current with trends, legislation and regulations in the dental profession
- Manage patient financial accounts
- Manage the hiring and ongoing performance of staff
- Manage and update office computer systems

Patient Management

- Oversee patient relations and handle patient complaints
- Help explain office policy to patients
- Help support staff as needed (i.e., appointment scheduling, collections, insurance, etc.)
- Monitor patient relations with regular patient satisfaction surveys

Staff Management

- Assign, direct and manage staff duties, as assigned by the dentist
- Determine staff schedules
- Recruit, interview and hire employees as directed by the dentist
- Orient and train new staff
- Organize training staff on OSHA compliance
- Display any posters required by federal, state or local law
- Monitor staff performance
- Conduct staff and salary reviews
- Coordinate team meetings
- Engage in conflict resolution
- Help arrange for staff CE

- Make business travel arrangements for dentist and staff

Records and State and Federal Regulations Management

- Help implement state and federal regulations
- Arrange for OSHA and risk management training
- Maintain employment records
- Update and maintain employee office manual
- Help dentist draft office policies

Marketing and Public Relations Management

- Oversee the design of marketing and promotional materials (print and electronic)
- Manage dental office advertising/recruiting ads for new staff
- Implement marketing strategies
- Coordinate event planning, conference travel, volunteering, mentoring programs, community outreach, and similar programs
- Assist with dental office facility management

PERSONNEL REQUIREMENTS

Education/Experience

- High school diploma or equivalent; some college preferred
- Dental experience preferred
- Working knowledge of computers for word processing, insurance claims processing and records management (list computer software experience required including any specific dental software)
- Knowledge or experience in staff management

Interpersonal

- Excellent communications skills
- Team player
- Conflict resolution experience
- Customer service or patient relations experience
- Ability to communicate all concerns to the dentist

FIGURE 1.8 SAMPLE JOB DESCRIPTION: COMMUNICATIONS COORDINATOR

Communications Coordinator

Reports to: _____

PRIMARY RESPONSIBILITIES

Responsible for coordinating the practice's internal and external communications. Working independently under the office manager, develop all patient correspondence and marketing communication materials. Prepare communications (memoranda, meeting notes, etc.) for practice employees as necessary.

SPECIFIC DUTIES

Correspondence

- Prepare and send patient appointment reminders
- Prepare and send new patient and referral thank-you letters
- Prepare and send continuing care notices on the 15th of each month
- Prepare and send correspondence as directed by the dentist
- Coordinate mailings of patient correspondence and promotional/marketing materials

Marketing and Public Relations

- Assist Office Manager with the following tasks:
 - * Design of marketing and promotional materials (print and electronic)
 - * Dental office advertising/recruiting ads for new staff
 - * Marketing strategies
 - * Coordinating other events such as event planning, conference travel, volunteering, mentoring programs, community outreach, etc
- Maintain and update practice website and social media presence if applicable
- Stay current with trends in the dental profession

PERSONNEL REQUIREMENTS

Education/Experience

- High school diploma or equivalent; some college preferred
- Two years of marketing or communications experience
- Working knowledge of computers (list computer software experience)
- Exceptional verbal and written communications skills

Interpersonal

- Excellent communications skills
- Team player
- Ability to develop professional relationships with external vendors
- Well-organized and detailed oriented

HIPAA Privacy and Security Officials

A HIPAA covered entity must designate a privacy official, a security official and a contact person or office who is responsible for receiving complaints and who is able to provide further information about matters covered by the Notice of Privacy Practices. In addition, to comply with the HIPAA Breach Notification Rule, a covered entity dental practice should determine who will be responsible for assessing suspected breaches, sending any required notifications and documenting compliance.

One member of the dental team may be designated to serve all of the following functions. If the privacy or security official delegates a duty to another team member, that duty should be added to his or her job description (for example, if the business manager will be responsible for facility security tasks such as distributing keys and managing the alarm system).

Figures 1.9 and 1.10 show the responsibilities of HIPAA security and privacy officials. These responsibilities are often handled by existing staff or by the practice owner. You can add these items to any of the other jobs such as office manager or treatment coordinator.

FIGURE 1.9 SAMPLE JOB DESCRIPTION: HIPAA SECURITY OFFICIAL

HIPAA Security Official

Reports to: _____

PRIMARY RESPONSIBILITIES

Manage dental practice compliance with the HIPAA Security Rule

SPECIFIC DUTIES

- Develop and implement dental office policies and procedures in compliance with the HIPAA Security Rule to protect the dental office's electronic protected health information
- Conduct and document HIPAA Security risk assessments and technical and nontechnical evaluations as required by the HIPAA Security rule
- Regularly review records of information system activities
- Identify and respond to suspected or known security incidents, mitigate known harmful effects, and document security incidents and their outcomes
- Ensure that a business associate agreement is in place for each of the dental office's business associates that has access to electronic protected health information
- Confirm that each business associate has appropriate policies and procedures in place to safeguard electronic protected health information
- Make each business associate aware of the dental practice HIPAA Security policies and procedures
- Make dental practice HIPAA Security policies and procedures available to workforce members and answer their questions regarding security safeguards

- Train workforce members on the requirements of HIPAA Security and the dental practice's security policies and procedures and document training
- Apply and document appropriate sanctions against workforce members who fail to comply with dental practice security policies and procedures
- Create, receive and retain any documents related to dental practice HIPAA Security compliance, such as dental practice policies and procedures, reports of information system activities, business associate agreements, etc.
- Establish a contingency plan in case systems containing electronic protected health information are damaged, and implement the plan as necessary
- Manage facility security (e.g., door locks, alarm system, distribution of keys and passcodes)
- Manage the disposal and re-use of electronic media
- Periodically review and update policies and procedures (e.g., if new technology is acquired, if a new threat or vulnerability is identified, or if the HIPAA regulations change)

PERSONNEL REQUIREMENTS

Education/Experience

- High school diploma or equivalent; some college preferred
- Knowledge of HIPAA compliance requirements
- Dental experience preferred
- Working knowledge of computers and records management (list computer software experience required including any specific dental software)
- Knowledge or experience in staff management and training

Interpersonal

- Excellent communications skills
- Team player
- Conflict resolution experience
- Customer service or patient relations experience
- Able to communicate all concerns to the dentist

One member of the dental team may be designated to serve the function of both the HIPAA security official and the HIPAA privacy official. If the privacy or security official delegates a duty to another team member, that duty should be added to his or her job description.

FIGURE 1.10 SAMPLE JOB DESCRIPTION: HIPAA PRIVACY OFFICIAL

HIPAA Privacy Official

Reports to: _____

PRIMARY RESPONSIBILITIES

Manage dental practice compliance with the HIPAA Privacy and Breach Notification Rules

SPECIFIC DUTIES

- Develop and implement dental office policies and procedures in compliance with the HIPAA Privacy and Breach Notification Rules to protect the dental office's protected health information in all formats (hard copy such as paper and films, electronic and oral), and update policies and procedures to comply with changes in the law and as necessary
- Develop and implement appropriate safeguards to protect the privacy of protected health information, and reasonable safeguards to limit incidental uses or disclosures of protected health information
- Develop the Notice of Privacy Practices, update as appropriate, and ensure it is properly provided and documented
- Train workforce members on the requirements of the HIPAA Privacy and Breach Notification Rules and the dental practice's policies and procedures, and document training
- Ensure that a business associate agreement is in place for each of the dental office's business associates that has access to protected health information
- Confirm that each business associate has appropriate policies and procedures in place to safeguard protected health information
- Make each business associate aware of dental practice HIPAA Privacy and Breach Notification policies and procedures
- Manage uses and disclosures of protected health information to anyone other than the individual who is the subject of the information in compliance with HIPAA
- Respond as appropriate to individuals' complaints under HIPAA and to individuals' requests, such as requests for further information about matters covered by the Notice of Privacy Practices; access; amendment; accounting of disclosures; privacy protection (restrictions on disclosures); and confidential communications (by alternative means or at alternative locations), and document such complaints and requests as required by HIPAA
- Apply and document appropriate sanctions against workforce members who fail to comply with dental office privacy and breach notification policies and procedures
- Assess suspected breaches of protected health information to determine whether notification is required, and document each assessment
- Provide and document timely and appropriate breach notification as required by HIPAA

- Create, receive and retain any documents required by or related to HIPAA Privacy and Breach Notification compliance, such as dental practice policies and procedures, Notices of Privacy Practices, acknowledgements, business associate agreements, authorizations, disclosure logs, etc.

PERSONNEL REQUIREMENTS

Education/Experience

- High school diploma or equivalent; some college preferred
- Knowledge of HIPAA compliance requirements
- Dental experience preferred
- Working knowledge of computers and records management (list computer software experience required including any specific dental software)
- Knowledge or experience in staff management and training

Interpersonal

- Excellent communications skills
- Team player
- Conflict resolution experience
- Customer service or patient relations experience
- Able to communicate all concerns to the dentist

Who to Hire First

If you are a new dentist just starting out, you may wonder who you should hire first. Few dentists opening new practices have the funding to hire multiple employees, so the choice between hiring a dental assistant and an office/business manager is a top priority. Although there are advantages and disadvantages to hiring either type of employee, an individual with experience in both areas, representing the “whole package,” would be ideal. Since this may not always be feasible, hiring an office/business manager who makes a great first impression can prove invaluable. After all, he or she is providing the first “window” into your practice.

Employee Resources

After you have developed the job description, your next step is to spread the word about your job opening. There are a variety of choices in recruitment. Be sure to evaluate the costs and benefits of the different recruitment options.

Your applicant pool, and your dental office workforce, should be as diverse as your community. To avoid claims of discrimination based on your recruiting practices, use a wide variety of recruitment tactics. If your job ad does not reach a broad cross-section of the population, it could be construed as having a negative impact on protected classes of individuals, such as minorities, resulting in claims of “disparate impact.” Avoid relying exclusively on Internet or word-of-mouth advertising, or on publications or job boards that may not reach a broad cross-section of potential applicants.

Employment Agencies

Employment agencies can save you time, but not necessarily money. They typically charge 50 to 90 percent of the first month’s earnings for the selected employee. The agency may perform the initial screening of the applicant. To get your money’s worth, look for an agency that specializes in healthcare placements and will prove its track record by providing the names of satisfied clients. Always read the contract closely!

Ask such questions as:

- What if an employee sent by the agency does not work out?
- Under what conditions is the fee refundable?
- Will the agency find a replacement at no charge if an employee is found unsuitable?
- Does the agency run a background check? If so, how extensive is the background check?
- What if the employee quits 14 days after being hired?

Educational Institutions

Let local schools know that you are interested in recruiting new graduates. Or, if a recent graduate would lack the experience you seek, ask about past graduates looking for employment opportunities. Some hygiene and assisting departments keep listings of alumni who are available for employment. Typically, no fees or low fees are charged for this service.

Professional Associations

Local dental, dental assisting or dental hygiene associations may have listings of individuals seeking employment and offices seeking staff. Typically, no fee is charged for this service.

Dental Supply Representatives

This type of contact can be very beneficial. Sales representatives may know who is available—or who will be available—before the rest of the dental community.

State Employment Agencies

There are no fees charged when using the state employment agencies. Be specific when describing the requirements needed. (Agencies typically refer many applicants representing a diverse range of skills. The agency may not necessarily limit its referrals to only those with dental experience.)

Word of Mouth

This method of recruitment is easy, effective and free. Let your friends, neighbors and colleagues know about your open position and its requirements. Do not, however, mention open positions to all your patients. If a patient applies and is not hired, you may lose them from the practice. Also keep in mind that hiring relatives or friends can present challenges related to supervision, performance evaluation and termination. Employment laws apply whether or not an employee is a relative or friend, and your dental office employment policies must apply equally to all employees, too. For example, if you ask your spouse to work in the office for “just a

few months,” decide together on your spouse’s duties, compensation and discharge date before the first day of work.

Internet Recruiting

The number of job seekers using the Internet to find jobs continues to rise, as does the number of human resource professionals who use them to find candidates. Job listings that used to take days to post in traditional media, such as newspapers, can now be posted instantly. Conversely, job candidates are only a few clicks away and can respond to job listings as soon as they see them.

In addition, Internet recruiting can be less costly than advertising and using recruiting agencies. Here are some things to keep in mind when recruiting via the Internet:

- Consider dental-specific job sites to find candidates with specialized skills in dentistry, including both clinical and office staff. Today, there are numerous dental job boards, such as www.dentaljobs.net and www.dentalworkers.com that you can use to recruit your dental team.
- Look at ways to complement posting on traditional job boards. According to an article in the Wall Street Journal, many companies “plan to scale back their use of online job boards, which they say generate mostly unqualified leads, and hunt for candidates with a particular expertise on places like LinkedIn’s professional networking site before they post an opening.”¹
- Take a look at the initial responses to your post. Not seeing the types of candidates you envisioned? Internet postings allow you to edit your ad in an instant, adding more specific requirements or additional skills to narrow the field of potential candidates. Not generating enough interest? Consider editing your ad to make it more general.

Job listings that used to take days to post in traditional media, such as newspapers, can now be posted instantly.

Employment Advertisements

In recent years, newspaper ads have given way to ads placed on the Internet. However, they are still a viable option in your search for qualified candidates and they tend to reach a broad cross-section of the population, including individuals who may not frequently use the Internet. When you write your advertisement, be as specific as possible to screen out unqualified candidates. Run your advertisement on Sunday for the best readership. You might want to consider placing an ad in a section other than dentistry. Many great employees can be recruited from other fields, such as administrative, banking, medical and marketing.

Writing Job Ads

Although many employers choose to display the businesslike job ad, today’s job ads tend to be much more creative than they have been in the past. The serious tone is sometimes replaced with the conversational, and traditional designs are being replaced with the edgy. Candidates use keywords to search the database, so job ads should contain sufficient detail and avoid acronyms and abbreviations. Whatever media you use—print or electronic—your want ad should be well-written and achieve the following:

- Create interest
- Generate enthusiasm
- Initiate a response
- Obtain qualified candidates

Employment discrimination laws apply to all stages of the employment process, including recruitment. Make sure your job ad does not use discriminatory language and that it is not likely to have a disparate negative impact on a protected group. Even inadvertent and unintentional discrimination can expose your practice to liability under federal, state, and or local laws. Avoid language that limits applicants based on race, religion, age, gender, national origin, physical or mental disability, or any other applicable protected class. For example, do not use such words as girl, Gal Friday, young,

mature, student, recent graduate, married, physically fit, or cleaning woman. Instead, use terms such as up-to-date knowledge. Replace gender-specific job titles such as cleaning woman with gender-neutral alternatives such as cleaning person.

Disabilities laws generally require that the application process be made available to all persons/applicants on an equal basis. Offer more than one method for applying for a position by including both an email and a postal address as well as a telephone number. For example, this can allow an equal opportunity for a person, for example, with a hearing disability, who could not use a telephone to apply for a position.

Sample Ads

Newspaper ads are typically shorter due to prices associated with word counts. Internet ads, such as those on job boards and dental practice websites, are usually more wordy and personable. Generally, candidates are very interested in the details of an online job posting, so use it to your advantage and write the ad as a “mini marketing campaign” for your practice. You can use the following ads as examples to help you customize your own want ads.

FIGURE 1.11 SAMPLE JOB ADS

ASSOCIATE WANTED FOR COSMETIC PRACTICE

Associate wanted for a large and busy high-end practice with excellent reputation. Leading to ownership. Four-day work week and full-time hygiene department. Modern office and equipment. Huge patient base. Great, highly trained staff. Excellent management and marketing support. Paid medical insurance and continuing education. Partners in the practice would appreciate talking to dentists with great attitudes and similar mindsets. Equal Opportunity Employer. For more information, visit our website www.practice.com. Contact Mary at mary@practice.com to discuss opportunity.

DENTAL PRACTICE MANAGER

Seeking a take-charge decision-maker. The right candidate will have strong skills in financial operations, personnel management and patient relations. Knowledge of third-party reimbursement and collections is required. Background check is required prior to job offer. Send resume to Personnel Director, P.O. Box 123, Chicago, IL 60611. Equal Opportunity Employer/disabled welcome.

**DO YOU LOVE KIDS?
Full-Time Dental Assistant**

15 days vacation first year, excellent medical benefits, health club membership

Seeking an enthusiastic, experienced dental assistant (certification is a plus) who is crazy about kids and who enjoys a busy, fast-paced day. We are a growing practice who cares about our dental team. Emphasis on personal development through continuing education, team building, and high achievement. Come join our newly remodeled, bright, state-of-the-art practice. We also offer generous benefits. Salary commensurate with experience and qualifications. Equal Opportunity Employer. For more information, contact Mary at mary@practice.com, or apply to: Chicago Dentists, 123 Chicago Road, Chicago, IL 12345.

PERSONABLE HYGIENIST WANTED

We are a friendly family practice in desirable San Diego. Our patients are wonderful and have high dental IQs. Our staff members work together well and help each other out whenever needed. If this sounds like a good fit, please reply. We are looking for a full-time RDH to work 4 days (Monday - Thursday preferred, but we are flexible). Hourly pay (overtime pay when necessary) plus benefits (i.e., medical stipend, holiday, vacation, and personal leave) offered. To apply, contact Mary at mary@practice.com or mail your resume to San Diego Dentists, 123 San Diego Road, San Diego, CA 12345. We are an Equal Opportunity Employer.

Employment Applications

Consult with your personal attorney for state-specific employment application language. For example, Illinois law requires that applications for employment in Illinois say that the applicant is not obligated to disclose sealed or expunged records of conviction or arrest. In addition, if your dental practice uses a probationary period policy, you can use this language on your employment application.

Figure 1.12 shows a sample application form that you can customize for your dental practice.

*Consult with your personal attorney
for state-specific employment
application language.*

Application for Employment

This practice does not discriminate against applicants on the basis of race, sex, color, religion, national origin, age, disability or veteran status. We are an Equal Opportunity Employer.

PERSONAL INFORMATION

Today's Date: _____

Name: _____

Address: _____

Telephone: _____ Cell: _____

E-mail: _____

Are you at least 18 years of age? _____ Are you eligible to work in the U.S.? _____

Have you served in the military? _____ Reserves? _____ Branch? _____

Have you previously worked at this practice or an affiliate? _____

POSITION INFORMATION

Title of position: _____ Salary Desired: _____

How did you hear about this position? _____

Date available for work: _____ Type of work desired (i.e., full time, part time, etc.): _____

List special skills, CE coursework, and experience related to this position: _____

EDUCATION

High School: _____ Graduation Date: _____

Business/Technical School: _____ Date: _____ Degree: _____

College: _____ Date: _____ Degree: _____

Graduate School: _____ Date: _____ Degree: _____

Additional Skills and Training _____

WORK HISTORY (Use additional sheets if necessary)

Company Name: _____ Address/Phone: _____

Dates: _____ Position: _____

Supervisor: _____ Pay rate: _____

Duties: _____ Reason for leaving: _____

Company Name: _____ Address/Phone: _____

Dates: _____ Position: _____

Supervisor: _____ Pay rate: _____

Duties: _____ Reason for leaving: _____

FIGURE 1.12 SAMPLE APPLICATION FOR EMPLOYMENT

Company Name: _____ Address/Phone: _____
Dates: _____ Position: _____
Supervisor: _____ Pay rate: _____
Duties: _____ Reason for leaving: _____

REFERENCES (Please list three)

Name: _____ Years Acquainted: _____
Address: _____ Telephone: _____
Name: _____ Years Acquainted: _____
Address: _____ Telephone: _____
Name: _____ Years Acquainted: _____
Address: _____ Telephone: _____

PERSONAL

Have you ever been convicted of a felony or criminal offense, including driving under the influence of alcohol or drugs, but excluding minor traffic violations and parking tickets? Applicants are not obligated to disclose sealed or expunged records of conviction or arrest. A conviction record will not necessarily bar you from employment. Each application will be individually considered on its merits.

If yes, please explain: _____

EMERGENCY INFORMATION

In case of emergency, notify: _____
Address: _____ Telephone: _____

APPLICANT'S STATEMENT (Please read and sign below)

I understand that this employment application and any other Practice documents are not promises of employment. Should I be employed, I understand that my employment will be on a trial period for ninety (90) days from the date of my hiring. I understand that, if I am employed, I can terminate my employment with or without cause and with or without notice, at any time, and the Practice has a similar right.

I grant permission to the Practice or its duly authorized representatives to contact any persons, companies, schools, or healthcare providers named or referred to in the application (other than my present employer) and I hereby authorize those persons, companies, schools, and healthcare providers to provide my record, reasons for leaving, and all other information they have concerning me to the Practice. I further release all such parties and the Practice from any and all liability claims for damage whatsoever that may result from such contact or information.

The information given by me in this application is true and complete, and I agree that if the information is found to be false or misleading, that I will be disqualified from consideration for employment or subject to immediate dismissal if discovered after I am hired.

Signature of applicant: _____ Date: _____

Effective Interviewing Strategies

To prepare for the interview, review the application or resume, taking special note of the candidate's employment record. Screen the initial candidates with three-to-five minute telephone interviews. Be prepared to answer their questions as well.

The person conducting the interview should set aside 30–45 minutes in a setting with no interruptions. Begin with a description of the position and a quick sketch of the practice. This step should take less than ten minutes. Many interviewers err by spending too much time on the position and too little time on the applicant. Spend the next 15 minutes or so asking open-ended questions to discover the candidate's qualifications, personality and working style. Encourage the applicant to discuss his or her past work experience in an open, frank manner. Close the interview with a brief summary of the benefits of the position. Ask the applicant if he or she has any questions.

Ask top candidates to meet your current staff. This will stress the importance of being a team player in your practice. It will also give your current staff a chance to offer their input on final candidates. In addition, offer applicants the opportunity to take an office tour, view instruments and sterilization methods, and review educational materials.

The person conducting the interview should set aside 30–45 minutes in a setting with no interruptions. Begin with a description of the position and a quick sketch of the practice. This step should take less than ten minutes. Many interviewers err by spending too much time on the position and too little time on the applicant.

Ask top candidates to meet your current staff. This will stress the importance of being a team player in your practice. It will also give your current staff a chance to offer their input on final candidates.

Conducting Interviews

When searching for new staff, look for skills and certifications, as well as compatibility and a good attitude. The new employee should have the same goals as your practice. Obtain input from your current dental team members during the hiring process. They can help contribute to the success of the new employee.

Be sure applicants can provide a current license or certification for jobs that require them. In addition, you'll want to prescreen your potential employees. The section "Reference Checks" will provide additional information on previous employment and background and credit checks.

When interviewing, you might discuss membership in professional associations (such as ADA and ADHA) and continuing education (CE) background, as well as associated travel expectations as part of the hiring process. Ideally, you should look for applicants who consider CE learning to be a professional priority. If someone doesn't show an interest in CE, they'll probably view it as an obligation, rather than a benefit. Presenting a written job description and the CE policy—with practice-paid limitations and allowable time off—during the interview can reduce disappointments later.

Check with a qualified attorney regarding appropriate interview questions under applicable employment laws. The key is to ask questions related only to the person's ability to perform the position's responsibilities, and to avoid asking personal or legally inappropriate questions that could result in a discrimination claim. Do not ask such questions **even** if the applicant volunteers information on a subject.

Sample Interview Questions

Interview Questions for Associate Dentist

- Tell me a little about yourself and why you would like to work here.
- Tell me about your personal philosophy for performing dentistry.
- What visionary goals could you bring to this practice?
- What new dental procedures are you experienced with?
- What new skills would you like to learn?
- What new high-tech dental equipment are you experienced with?
- What is the most valuable CE experience you've ever had? How do you pass that information on to your coworkers?
- Tell me about the computer training you've had. What dental software programs are you familiar with?
- Tell me about the experience you have managing personnel. Can you describe a situation when your coaching and guidance changed an employee's behavior?

Interview Questions for Business Manager

- Tell me about the computer training you've had. With which software programs are you familiar?
- What is your philosophy for managing a dental practice?
- Tell me about some ideas you have for creating better patient relations in this practice.
- If you noticed that the practice's accounts receivable were high, what would you do to correct the situation?
- How would you handle a problematic patient who displayed his or her temper in front of other patients and the office staff?
- How would you develop a marketing plan for this practice?
- Have you ever disciplined or fired anyone? Describe the situation and the process you used.
- How would you handle a disagreement between employees?
- How would you help the practice attract new patients?
- If you're involved in CE, what is the most valuable CE experience you've ever had? How do you pass that information on to your coworkers?

Interview Questions for Dental Assistant

- In your opinion, what characteristics should a dental assistant possess?
.....
- Working as a dental assistant, what is your favorite task? Least favorite?
.....
- How would you deal with an anxious patient?
.....
- What new procedures have you assisted with?
.....
- What high-tech dental equipment are you familiar with?
.....
- Tell me about the computer training you've had. With which dental software programs are you familiar?
.....
- What dental materials have you worked with extensively?
.....
- Tell me about the experience you've had with ordering dental supplies.
.....
- What are some new skills you'd like to learn?
.....
- What is the most valuable CE experience you've ever had? How do you pass that information on to your coworkers?
.....

Interview Questions for Dental Hygienist

- What is your favorite task working as a dental hygienist? Least favorite?
.....
- What was your average daily production in your previous/present position?
.....
- What is the most valuable CE experience you've ever had? How do you pass that information on to your coworkers?
.....
- Do you like to help "sell" the doctor's treatment plan? How would you accomplish this?
.....
- What is your patient treatment philosophy?
.....
- What type of scheduling do you prefer? How much time would you like to spend with your patients?
.....
- If you had a broken appointment, what would you do?
.....
- How do you handle working with a problematic patient?
.....
- What are your strategies for motivating patients to engage in better oral health care?
.....
- What are some new skills you'd like to learn?
.....

Interview Questions for Administrative Assistant

- Tell me about the computer training you've had. With which software programs are you familiar?
- In your opinion, what characteristics should an administrative assistant possess?
- What are some steps you could take to help a patient feel welcome to the practice?
- How would you deal with a problematic patient who was always late for their appointment?
- In terms of scheduling, how can you maximize a work day for the practice?
- What would you say to a patient who wanted to call the office back to schedule a recall appointment?
- How would you deal with a disagreement with a coworker?
- How would you deal with a rude and obnoxious patient?
- What are some ideas you have to enhance patient relations for this practice?
- What is the most valuable CE experience you've ever had? How do you pass that information on to your coworkers?

Interview Questions You Cannot Ask

As mentioned earlier, there are also questions you may not ask in an employment interview. In short, listed below are issues to avoid when making pre-employment inquiries.

- Ancestry
- Arrest records
- Childcare provisions
- Garnishment records
- Height
- Marital status
- Nationality
- Physical or mental disabilities
- Pregnancy and future childbearing plans
- Race
- Weight

Below are examples of inappropriate questions during a job interview:

- I feel as though I've met you somewhere before. What's your maiden name?
- Where is your family from?
- Are you married?
- Do you have children?
- Are you the primary wage earner for your family?
- Do you hold citizenship in a country other than the United States?

In addition, do not make any employment “promises” during the interview process. These statements could be misinterpreted as “contractual.” Some of these statements are listed below.

- You will have a great deal of job security at this practice.
- You will have a long and rewarding career with us.
- Within this practice, there are no layoffs.

The following is a detailed list of characteristics that cannot be considered when making employment decisions. Because laws change and state regulations vary, this list is not meant to be final or all-inclusive.

- **Race, Creed, Color, Religion, National Origin**

The federal statute Title VII of the Civil Rights Act of 1964 prohibits discrimination based on race, color, religion, sex or national origin with respect to hiring, firing and compensation. This law was amended by the Equal Employment Act of 1972 to cover all private employers of 15 or more employees. In addition, human rights acts in almost every state outlaw the same types of discriminatory activities, sometimes for employers with as few as one employee.

You cannot ask questions about race, ask applicants to submit a photograph, or ask for hair, eye or skin color on an application form. You cannot ask about religious affiliations or observance of religious holidays. In terms of national origin, you cannot ask such questions as “Were you born in the United States?” or “What is your native language?” You can ask, however, if the applicant has a legal right to work in the United States, or if the candidate speaks a language other than English that would be helpful on the job.

- **Gender, Sexual Preference, Marital Status, Family**

Candidates are protected from questions related to gender, sexual preference, marital status and family plans under laws such as Title VII, the Equal Pay Act, and the laws of most states, as well as by the Office of Federal Contract Compliance Programs. Gender discrimination includes pregnancy, childbirth and related medical conditions. Applicants cannot be asked questions that would indicate marital status, family status, or family plans. For example, you cannot ask the following questions:

- Are you married?
- Do you prefer to be addressed as Ms., Miss, or Mrs.?
- What does your husband do?
- Do you plan to have a family?
- How old are your children?
- What are your child care arrangements?

Since the primary reason most dental employers ask about family status is to find out whether the prospective employee can meet the scheduling and overtime needs of the practice, you can ask such questions as: “Our hours are 8 a.m. to 5 p.m. Is there any reason you would be unable to meet that time frame?” Or, “Occasionally, team members are asked to work beyond their scheduled hours. Would that present a problem for you?” After hiring, employers may ask employees to provide information on their dependents for insurance reasons, if needed.

- **Age**

Applicants aged 40 and over are protected under the Age Discrimination in Employment Act for employers with 20 or more employees. Most states have statutes against age discrimination that apply to employers with fewer than 20 employees. The Fair Labor

Standards Act and state laws cover minors. You can ask whether the applicant meets the state's requirement for working age. (You should also check your state's laws on the topic of work hours for underage workers.) After an applicant is hired, an employer may ask about date of birth for reasons such as insurance enrollment, if necessary.

- **Height and Weight**

You cannot ask about an applicant's height or weight according to Title VII case law and many state laws. (You can, if necessary, obtain uniform size after hiring.)

- **Financial Status**

You cannot ask if the applicant owns or rents a home or car, or if the applicant's wages have previously been garnished (unless financial considerations for the job in question exist). For example, you cannot ask: "Do you have a car?" or "Do you own your home?" or "Have you ever declared bankruptcy?"

- **Arrest and Conviction**

You may not ask if an applicant has ever been arrested, because being arrested doesn't mean he or she is guilty. You may ask if the applicant has been convicted of a crime. State laws may restrict your questions about criminal records. For example, recent changes to Illinois law now prohibit employers from asking if an applicant has had criminal records sealed or expunged. According to the Equal Employment Opportunity Commission, based upon the number, type and recency of the convictions and their relationship to the position, you can reject an applicant because of a conviction. However, you may wish to consult with your attorney before doing so if this situation arises.

- **Organizations**

Under Title VII case law and the National Labor Relations Act, you cannot ask about membership in social or political organizations. You can ask about membership in job-related professional organizations. For example, "Are you a member in any organizations that are relevant to this position?"

- **Military Discharge**

You can ask if the applicant received any job-related experience in the military service. You cannot ask about type of discharge, disciplinary records or reserve duty obligations.

- **Disabilities**

Federal, state and/or local laws may prevent you from discriminating against people with disabilities in the employment context. The Americans with Disabilities Act (AwDA) is a federal civil rights law that prohibits employers with 15 or more employees from discriminating against people with disabilities—and those who associate with them – in all aspects of the employment relationship. (Note: all dental offices, even those with fewer than 15 employees, are covered by other parts of the AwDA regarding accessibility obligations to patients and members of the public.)

In addition to the AwDA, the Rehabilitation Act may offer additional federal protections to employees in offices of any size that accept Medicare and/or Medicaid funds. Dental practices that have contracts with federal programs or agencies, who are preferred providers under certain government health care plans, or who have an arrangement to provide services or supplies to a federal contractor, may be subject to affirmative action and equal

employment opportunity requirements of the Office of Federal Contract Compliance of the U.S. Department of Labor (OFCCP). Finally, more stringent state and/or local civil rights and disabilities laws with lower thresholds (e.g., covering offices with fewer than 15 employees) may apply—so know your state and local laws.

Under the AwDA, a person is considered to have a disability if he or she has a physical or mental impairment that substantially limits a “major life activity,” has a record of such impairment, or is regarded as having such an impairment. As a result of the Americans with Disabilities Act Amendment Act of 2008 (the AwDAAA) it is easier for an individual seeking protection under the ADA to establish that he or she has a disability.² According to the U.S. Equal Employment Opportunity Commission (EEOC), the AwDAAA and the final regulations define a disability using a three-pronged approach:

- a physical or mental impairment³ that substantially limits one or more major life activities⁴ (sometimes referred to in the regulations as an “actual disability”), or
- a record of a physical or mental impairment that substantially limited a major life activity (“record of”), or
- when a covered entity takes an action prohibited by the AwDA because of an actual or perceived impairment that is not both transitory and minor (“regarded as”).⁵

Although there is no comprehensive list of disabilities covered by the law, many mobility, vision and hearing impairments are covered.

In addition, the AwDAAA regulations give examples of specific impairments that should easily be concluded to be disabilities and examples of major life activities (including major bodily functions) that the impairments substantially limit. The impairments include: deafness, blindness, intellectual disability (formerly known as mental retardation), partially or completely missing limbs, mobility impairments requiring use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, HIV infection, multiple sclerosis, muscular dystrophy, major depressive disorder, bipolar disorder, post-traumatic stress disorder, obsessive-compulsive disorder, and schizophrenia.

Pregnancy, because it is not an impairment, is not a disability under the AwDA, although some pregnancy-related impairments may be considered disabilities.

Current users of illegal drugs are not protected. A person who no longer engages in the illegal use of drugs may be an individual with a disability if he or she:

- has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully, or
- is participating in a supervised rehabilitation program (e.g., Alcoholics Anonymous or Narcotics Anonymous)⁶

The AwDA's prohibition against employment discrimination extends to job application procedures, hiring and firing, job training or advancement, compensation and benefits, and other terms, conditions and privileges of employment.

To qualify for Title I protection, the person must be a “qualified individual with a disability” able to perform the “essential functions of the job” with or without a “reasonable accommodation.” Discrimination under the AwDA includes the failure by an employer to make reasonable accommodations to the known limitations of a person with a disability. The term “reasonable accommodation” is defined to include “modifications or adjustments to a job application process, work environment or the manner in which a job is performed that enable a qualified individual with a disability to be considered for or able to perform the job.” Examples include removal of structural barriers, modified work schedules (such as flex time), provision of auxiliary aids, job restructuring or reassignment.

The AwDA requires covered employers to provide reasonable accommodations to enable disabled applicants to be considered for a job opening, which may include accommodations during a job interview. If an applicant requests an accommodation during the application process, you may ask for documentation from a physician if the disability is not obvious.

The AwDA also restricts what questions covered employers may ask of applicants. Examples of prohibited questions include:

- Do you have a heart condition? Do you have asthma or any other difficulties breathing?
- Do you have a disability which would interfere with your ability to perform the job?
- How many days were you sick last year?
- Have you ever filed for workers’ compensation? Have you ever been injured on the job?
- Have you ever been treated for mental health problems?
- What prescription drugs are you currently taking?⁷

According to the EEOC, An employer can ask all of these questions after it extends a job offer as long as the employer asks the same questions of other applicants offered the same type of job. **An employer may not ask such questions only of those who have obvious disabilities.**⁸

If the AwDA covers your dental practice, you might wish to visit the EEOC website at www.eeoc.gov for information about questions an employer may and may not ask during a job interview.

In general, the EEOC has stated that an employer may not ask job applicants whether they will need reasonable accommodations to perform the job because the answer to this question is likely to reveal whether an applicant has a disability. However, if an employer knows that an applicant has a disability, and it is reasonable to question whether the disability might pose difficulties for the individual in performing a specific job task, then the employer may ask whether the applicant would need reasonable accommodation to perform that task. An employer might know that an applicant has a disability because it is obvious or because the applicant has voluntarily revealed the existence of a disability. If the applicant indicates that accommodation will be necessary, then the employer may ask what accommodation is needed.

Also, if the employer believes an applicant with an obvious disability will need a reasonable accommodation to do the job, it may ask the applicant to describe or demonstrate how she would perform the job with or without reasonable accommodation.⁹

The AwDA does not require that an applicant inform an employer about the need for a reasonable accommodation at any particular time, so job applicants are not required to volunteer this information on an application form or in an interview.¹⁰

According to the EEOC, an employer does not have to hire an applicant who is unable to perform all of the essential functions of the job, even with reasonable accommodation. However, an employer cannot reject an applicant only because the disability prevents him or her from performing minor duties that are not essential to the job.¹¹

An employer is not required under the AwDA to make an accommodation that would cause an “undue hardship” on its business, allowing a financial defense to employers. This is a limited exception and should be relied upon with caution. Nor is the employer required to hire a disabled person in preference to a better-qualified, able-bodied person. Further, the AwDA does not prevent employers from using “qualification standards” that relate to the essential functions of the job in question and are consistent with business necessity. However, the use of qualification standards as a pretext to screen out individuals with disabilities is not permissible.

In addition to the civil rights laws addressed above, when the disability in question is also an infectious disease (e.g., HIV), the dental office and/or infected employee may need to comply with additional legal requirements, including possibly submitting to a state expert review panel for consideration of possible practice restrictions. The employer may also need to assess risk of transmission to patients, whether there is a duty to disclose to patients, etc. The law regarding infected providers requires an understanding of current science. Consult with counsel as appropriate regarding this evolving area of law.

• • •

To determine whether an applicant or employee is protected under the Americans with Disabilities Act, consult a qualified attorney. For further information about the AwDAAA, see the U.S. Equal Employment Opportunity Commission web page for the Americans with Disabilities Act Amendments Act of 2008 at www.eeoc.gov/laws/statutes/adaaa_info.cfm.

According to the EEOC, an employer does not have to hire an applicant who is unable to perform all of the essential functions of the job, even with reasonable accommodation. However, an employer cannot reject an applicant only because the disability prevents him or her from performing minor duties that are not essential to the job.

Red Flags in the Interview Process

Nothing will give you a more accurate picture of someone's job potential than an interview. Interviews give you a chance to see how candidates interact with you and your staff, and allow them to personally express how they would contribute to the practice. However, the interview can also raise some red flags that show that a candidate may not be a good fit.

The following list of common red flags has been adapted from John Putzier and David Baker's *The Everything HR Kit: A Complete Guide to Attracting, Retaining, and Motivating High-Performance Employees*. It offers some signs to watch for when conducting an interview:

- **Arriving late for the interview.** Natural disasters aside, there are very few reasons to justify being late to an interview. Is this the behavior you can expect if the candidate is hired?
- **Treating your staff dismissively or disrespectfully.** This not only reflects how the candidate treats his or her potential colleagues, but could be a good indication of how he or she will treat your patients.
- **Not wearing appropriate attire for the position.** Shorts and a t-shirt may be okay for the beach, but for an interview, candidates should know how to dress. Clean business attire shows self awareness and good judgment.
- **Speaking negatively about past employers and experiences.** People enjoy working with others who maintain a positive outlook. This also shows an employee's unwillingness to take responsibility for his or her own actions.
- **Showing up unprepared.** Candidates who are organized with a pen and paper and extra resumes show they will most likely approach their jobs in the same way.
- **Using inappropriate language.** If the candidate is talking to you in such a way, someone he or she wants to impress, there is no doubt he or she will address coworkers and patients in the same manner.

- **Asking about money too soon.** The candidate is interested in one thing: the money, not the practice, the patients or career advancement opportunities.
- **Being vague in his or her responses.** This could be a defense mechanism if the candidate has something to hide, or it could indicate a lack of interest or enthusiasm about the position.
- **Not asking any questions.** This shows a lack of preparation, as well as a lack of interest in the job.¹²

Interviews give you a chance to see how candidates interact with you and your staff, and allow them to personally express how they would contribute to the practice. However, the interview can also raise some red flags.

Testing

Can you use a skill test? Certainly, if it tests skills necessary to the position and is not used in a discriminatory manner. What about using drug testing for prospective employees? This depends on applicable federal, state and/or local law. Drug testing is allowable under the Americans with Disabilities Act (AwDA) for prospective employees, but only after a job offer has been made. However, relatively few dental offices are covered by the employment provisions of the AwDA since those provisions are triggered only for business with 15 or more employees. Therefore, it is prudent to know your state law to determine when and to what extent drug testing may be conducted in your particular dental office. The same is true for testing or questions related to other aspects of the applicant's health. Sometimes applicants receive offers of employment conditioned on the satisfactory completion of a medical history questionnaire and if the employer deems it necessary, on the results of a medical examination.

Second Interview

You might want to invite your top candidates in for a second interview. Take them on an office tour. Allow them to observe instruments and sterilization methods and to review education materials. Ask your staff for input about the hiring of the candidate. When employees help select a new staff member, they will work harder to help him or her succeed on the job.

You should also consider your candidate's personality type. Would your office benefit from an out-going personality, for example, who could explain patient treatment plans with ease and enthusiasm? Perhaps there is a candidate that enjoys more computer or telephone work than patient contact. Most importantly, consider your candidate's attitude. Remember, one bad attitude can affect the entire practice.

Paid Working Interviews

A paid working interview can give you the opportunity to evaluate the performance of a candidate applying for a job. In this type of interview, the candidate spends half a day or so working with patients in the office.

During a working interview, technical as well as interpersonal skills can be reviewed, and the candidate has the chance to see how your practice operates. Be sure to check with your professional liability insurance carrier and to comply with any applicable state and federal laws when using this type of approach. The individual should also be trained to comply with your dental office's policies and procedures, such as HIPAA and OSHA.

Interview Follow-Up

The risk of being faced with a discrimination lawsuit does not end when the interviewing process is over. Listed below are some additional suggestions to help you protect your practice after the interview.

- **Make an offer ASAP**

Once you find an applicant who most nearly meets the requirements of the position, make a job offer as soon as possible, so you can inform all of the other applicants of your decision. On the other hand, if the applicant rejects the offer, you have enough time to move on to the next most qualified applicant.

- **Keep a record of interviews**

Discrimination charges can be filed long after an alleged discriminatory act has occurred. Employers who retain records of these interviews can justify hiring procedures and employment decisions. Your records should reflect appropriate bases for your employment decisions.

- **Keep individual applicant files**

Employers should keep a folder containing applications, resumes, interview records, and notes on each applicant for each recently filled position. These procedures protect your practice against claims of discrimination, as well as provide you with a resource for filling future positions.

- **Check references**

References should be checked prior to or immediately following the final interviews to obtain additional information. Reference questions should be phrased in such a way that the former employer is asked to describe, not rate, the applicant in terms of your list of relevant job tasks.

Additional Strategies in the Hiring Process

Background, Reference and Credit Checks

Now that you have conducted interviews with the applicants, you'll want to check the backgrounds of the best candidates. This is one part of the hiring process that should not be overlooked. Why? Just because an applicant has worked for another reputable employer doesn't mean that the applicant is an appropriate hire for your practice. An article in *Dental Economics* reinforces the importance of background checks, noting, "Fifty-six percent of applicant-supplied information contains one or more significant discrepancies." It continues, "Thirty-six percent of employment verifications uncovered inconsistencies from what had been stated on the application, and 14 percent listed false or inconsistent information regarding education."¹³

Do not needlessly risk a lawsuit that could bankrupt your practice by failing to perform a thorough background check. Both your personal and financial security may depend on it. Since employers are responsible for their employees' actions on the job, failure to investigate references can expose employers to liability for negligent hiring. In addition, background checks may decrease the likelihood of discipline problems and workplace violence.

Moreover, background checks may help protect your practice from liability under privacy data security laws such as HIPAA and state laws that protect personally identifiable information such as credit card numbers, Social Security numbers, drivers' license numbers and account numbers from inappropriate uses and disclosures.

Examples of some of the more typical background resources include the applicant's former employers, educational institutions, governmental sources, consumer credit agencies, Internet databases and personal references. Many employers choose to use professional background check companies because of their expertise and convenience. Using a background check company instead of performing

the check yourself can also prevent you from inadvertently obtaining sensitive information that could expose to liability.

For example, an employer who conducts an Internet search on an applicant as part of a background check may obtain information about the applicant's religious affiliation, disability status, or other categories protected by discrimination laws. Moreover, you may wish to outsource this function because doing a thorough background check takes time.

Previous employers can be an invaluable source of information regarding a job applicant. However, bear in mind that some former employers will only provide the most basic of information about a past employee in order to minimize the risk of a lawsuit. In such cases, it may be possible to request that the applicant provide copies of his or her performance evaluations.

As a courtesy to the former employer, a reference check should be brief. Remember, you're taking time away from the day-to-day tasks of their business to obtain your reference.

Listed below are general guidelines that can help you with questions to ask during a reference check. In addition, see Figure 1.13 for a customizable reference check worksheet.

- Call at least three references
- Confirm employment history, dates, titles and salaries
- Ask questions about the person's qualifications and performance
- Ask what it was like to work with this person
- Ask if there were any work problems associated with the person
- Ask the former employer if they would hire this person again
- Ask the former employer if they would hire this person to fill "X" position
- Remember, family and friends are not considered objective references

Former employers and schools may choose to only give job-related information about the applicant. Moreover, they cannot provide information irrelevant to the hiring process, such as gender, race, age, disabilities, medical records or drug test results, and asking for such information could expose you to liability for discrimination.

As protection against possible later discrimination or invasion of privacy suits, consider using a release of information waiver (see Figure 1.14), or a statement on your employment application, by which the applicant authorizes former employers or schools to release information on their past work experiences.

Depending on the law of your state, public records and employment-screening companies may be able to provide information on the following areas:

- Consumer credit report (to check identity information and bankruptcy)
- Criminal records (to check employee theft and drug-related convictions)
- Driving records (to check identity information and driving-related convictions)
- Educational records (to check college degrees)
- Federal, state and local court records (to check civil, criminal and bankruptcy cases)
- Past employment (to confirm job history and check work habits)
- Sexual offenders indexes

Consult with your attorney before accessing public records concerning a job candidate, due to variances among state laws. For example, some states prohibit employers from obtaining a credit report for employment purposes with certain exceptions, such as in cases where a candidate's credit-worthiness is substantially related to the job.

Dentists must keep in mind that they do not possess an unfettered right to investigate all aspects of an applicant's criminal background. For instance, the Equal Employment Opportunity Commission (EEOC) prohibits an employer from automatically disqualifying an applicant because of a prior conviction. Rather, in determining whether to reject an applicant based on a conviction, the EEOC recommends that the employer take into account: 1) the nature and gravity of the offense; 2) the time that has passed since the conviction or the completion of the sentence; and 3) the nature of the job for which the applicant has applied. Additionally, some states limit employers from inquiring into arrests at all or convictions that occurred well into the past. Other states only allow employers to consider convictions if the crimes are relevant to the position at issue. Accordingly, because state law varies widely regarding whether an employer can investigate the possible arrests and convictions of a prospective employee, a dentist should consult with an attorney or the dentist's state Department of Labor before inquiring into an applicant's criminal background.

A dentist who hires a third party to perform background checks on prospective employees should also be mindful of the Fair Credit Reporting Act (FCRA). The FCRA imposes various requirements on employers who rely on "consumer reporting agencies" to conduct background investigations in connection with prospective employees. The term "consumer reporting agency" is defined quite broadly, such that any dentist who hires a third party (e.g., private detective, employment screening company, on-line data broker, etc.) to investigate an applicant's background will be subject to the terms of the statute. First, the dentist must provide the prospective employee with a notice that the dentist is seeking a background report concerning the individual. This notice must be in writing, clear and conspicuous, and in a document that solely consists of the disclosure.

The dentist must obtain the written authorization of the individual prior to seeking the background check. This authorization may be included in the employment application itself.

Second, the dentist must obtain the written authorization of the individual prior to seeking the background check. This authorization may be included in the employment application itself. (The dentist may also want to include a stipulation that states that the furnishing of any false information in the application is grounds for denial of employment.) The dentist must certify to the reporting agency the permissible purpose for the report, and certify that the report will not be used for any other purpose. If the applicant refuses to consent to a reasonable request for information, some jurisdictions may allow the dentist legally to decide not to hire the person on that ground. The FCRA requires the employer to notify the applicant of any adverse action (such as a denial of employment) that is based at least in part on the agency's report.

The notification must contain certain required provisions, such as:

- The agency's name, address and telephone number (including a toll-free telephone number if it is a nationwide agency) that provided the report
- A statement that the agency did not make the adverse decision and is not able to explain why the decision was made
- A statement setting forth the consumer's right to obtain a free disclosure of the consumer's file from the agency if the consumer makes a request within 60 days
- A statement setting forth the consumer's right to dispute directly with the agency the accuracy or completeness of any information provided by the CRA States may impose requirements in addition to the FCRA.

Thus, dentists should give serious thought to performing background checks on their prospective employees. While the scope and detail of the background check may vary depending on the position to be filled, background checks may help dentists minimize or avoid liability for claims of negligent hiring. Background checks may similarly curb instances of theft and workplace violence. However, because federal and state law governs the procedures and scope of background checks, a dentist should consult with a experienced employment law attorney before undertaking this process.

Verifying Credentials

Verifying credentials is an important task of the hiring process. The laws of your state will determine which dental office employees must be licensed. Dentists can be subject to disciplinary action—or possible loss of their own license—for failing to check the validity of their employees' licenses.

Excluded Individuals

Prior to hiring for certain positions, such as an associate dentist, a dental practice should consider determining whether an individual has been "excluded" by the U.S. Department of Health and Human Services Office of Inspector General ("OIG").

If an individual has been excluded, no federal health care program will pay the individual or the practice for any items or services that the excluded individual furnishes, orders, or prescribes, regardless of who submits the claims. The dental practice may also be exposed to civil monetary penalties if it submits claims to a federal health care program for items or services provided directly or indirectly by an excluded individual.

The OIG maintains a list of excluded individuals and entities known as the "LEIE Database." Information about the exclusion program and the LEIE Database is available at the OIG website, www.oig.hhs.gov.

FIGURE 1.13 SAMPLE REFERENCE CHECK WORKSHEET

Reference Check Worksheet

Applicant: _____ Date: _____

Reference Person Contacted: _____

Position: _____

Phone: _____

Introduce yourself with your name, affiliation and title.

What were (applicant's) dates of employment? _____

List (applicant's) title and principal duties. _____

What was (applicant's) final rate of pay? _____

Was (applicant's) work performance satisfactory? _____

Why did (applicant) leave your company? _____

Would you rehire (applicant)? Why or why not? _____

What were (applicant's) strongest characteristics? Weakest? _____

How well did (applicant) work with others? _____

Could you comment on (applicant's):

Punctuality and attendance: _____

Potential for advancement: _____

Amount of supervision needed: _____

Attitude: _____

Signature of the person who did this reference check _____

FIGURE 1.14 SAMPLE INFORMATION RELEASE WAIVER AND INDEMNITY

Information Release Waiver and Indemnity

As an applicant for a position with [dental practice], I realize that a thorough background investigation will be conducted to qualify me for employment. I understand and agree that this background investigation may include, but is not limited to, interviews with and requests for information from my former employers and references, a check with duly constituted law enforcement agencies and/or judicial officers regarding criminal convictions pertaining to me, interviews with and requests for information from any educational institutions which I have attended or I am attending, and requests for information regarding my driving record.

I hereby authorize the release of any information related to my previous employment, criminal convictions (excluding sealed or expunged records of conviction or arrest), education, driving record, residence or character, unless such information is restricted by law. I understand that only such information as is pertinent to the position for which I have applied shall be considered. I request that this document serve as my authorization to any persons, companies, government agencies or other entities to furnish [dental practice] with any and all such information pertaining to me which may be in their possession. I hereby release [dental practice], all of its affiliated companies, their employees, offices, and agents, and any such person, company, government agency, or other entity from any liability arising directly or indirectly from the disclosure of any such information obtained in connection with such investigation. I agree to indemnify and hold harmless [dental practice], all of its affiliated companies, and their employees, officers and agents for all costs, damages, and expenses (including, but not limited to, reasonable attorney's fee) incurred as a direct or indirect result of any lawsuit or administrative proceeding brought against [dental practice], any of its affiliated companies, or their employees, officers or agents which is related directly or indirectly to the disclosure of any such information or to such investigation.

*Note: The existence of a criminal conviction does not constitute an automatic bar to employment and will be considered only as it relates to the position(s) for which the applicant has applied and will be evaluated with respect to time, seriousness and circumstances.

Full Name: _____ Other Names Known By: _____

Current Address: _____

Current Telephone Number: _____

Social Security Number: _____

Driver's License Number: _____

State Issued: _____

Applicant Signature: _____

Date: _____

Date of Birth:* _____

* Date of birth is necessary to verify criminal and driving history, (Note: The Age Discrimination in Employment Act of 1967, as amended, prohibits discrimination on the basis of age with respect to individuals who are at least 40 years of age.)

If your practice is a HIPAA covered entity, you should consider including background checks among the safeguards that you implement to protect your patient's information.

Opt Out

If an individual has opted out of Medicare, then with limited exceptions he or she cannot bill Medicare and must enter into private contracts with Medicare beneficiaries during the opt-out period (generally two years). If you are considering hiring a dentist or other individual who will provide Medicare-covered items or services to Medicare beneficiaries, ask whether he or she has opted out and, if so, the duration of the opt-out period.

Drug Testing

Drug testing is another option to consider in the hiring process as these tests may help identify individuals who are dependent on alcohol and drugs. However, state law determines whether drug testing may be conducted on prospective employees. Thus, before you request a prospective employee to take a drug test, you should consult with the department of labor in your state. In the area of drug and alcohol testing, state laws vary considerably, and some states have specific guidelines for when you may test applicants and employees and the procedures that must be followed by employers. It is possible that using a drug test may minimize your exposure to negligent hiring claims.

Honesty Tests

Written "honesty" tests are a further way to screen employees. These tests may have multiple choice or true/false questions. However, you should be aware that there is considerable controversy with respect to whether these types of tests are an accurate way to actually determine an applicant's honesty. Many human resource professionals prefer conducting a full background check and verifying the accuracy of the information given by the applicant to using an "honesty" test.

Employment Agreements

An employer should consult with an experienced employment attorney before preparing employee handbooks, contracts or other documents that might be construed as a contract of employment. Some states infer a promise of fair dealing as part of the employment relationship. Other states have found that an office policy manual or employee handbook, or written offers of "permanent" employment may constitute a contract—especially if the handbook contains no language to the contrary. Therefore, if termination is necessary, all rights provided by the law and established by agreement must be respected by the employer.

A HIPAA covered entity may include background checks on prospective workforce members who will have access to protected health information as part of its HIPAA compliance policies and procedures. If your practice is a HIPAA covered entity, you should consider including background checks among the safeguards that you implement to protect your patient's information.

Bonding

Bonding new employees is a method some practices use to protect against theft. Often called a "fidelity bond" or "employee dishonesty policy," bonding is a form of insurance against financial losses arising from dishonest acts of employees at work, such as the theft of money, medicine, or office equipment. These policies typically are issued as a part of a customized insurance package for your practice. Seldom issued separately, they are added on to your property, practice or liability insurance for an additional premium. Most carry a deductible similar to property insurance, such as \$250 or \$500. Because of confidentiality considerations, few of these policies survey or research personnel as a part of the service.

Bonds can apply to one individual or all employees of the practice. But in the interests of fairness and employee relations, you can't bond for just one employee whom you suspect of dishonesty. It's easiest, of course, to bond employees as they are hired. When you hire new team members, that's the time to introduce bonds to all of your employees—both new and current. As you consider bonding employees, you may weigh the advantages of added protection to practice finances against the disadvantages of bonding cost and negative employee morale.

How to Make an Offer

Once you've made a hiring decision, offer the candidate the job. A job offer can be made in-person, over the phone, or in writing. Most employers offer the job over the phone to obtain a quicker response and to hire an employee before someone else does.

After the interview, you should have a good idea of what salary you will offer the candidate. This will be a combination of the following factors: employee's credentials, employee's experience, job responsibilities and a market analysis of salaries in your community for similar positions. For more information on determining a salary, see Chapter 5, "Employee Benefits."

As you make the offer, do not make any employment promises—or statements that can "seem" like promises—that you cannot keep. If the employee were to ever take a grievance to court, these statements could be interpreted as a "binding contract" and be inconsistent with your at-will employment status.

The official written offer can then be mailed to the employee. Again, the offer should be written in a way that cannot be seen as a "binding contract." In fact, if you are an at-will employer, the offer letter is an excellent way to reiterate that at-will employment status. Avoid using phrases that imply a long-term relationship, such as "our company family," or "job security." The offer letter should state the rate of pay on an hourly, weekly, or monthly basis—never on an annual basis. Offering an annual rate of pay can be interpreted as a yearly contract.

The written offer should contain the following information, and should be reviewed by legal counsel:

- Position
- Wages
- Benefits
- Office location and working hours
- Beginning date
- Any paperwork that should be brought in on the first day of work
- Any other information you want to include about the practice

Figures 1.15 and 1.16 show sample letters to new employees.

As you make the offer, do not make any employment promises—or statements that can "seem" like promises—that you cannot keep. If the employee were to ever take a grievance to court, these statements could be interpreted as a "binding contract" and be inconsistent with your at-will employment status.

FIGURE 1.15 SAMPLE LETTER TO NEW EMPLOYEE (WITHOUT PROBATIONARY PERIOD LANGUAGE)

Sample Letter to New Employee

(Without Probationary Period Language)

Date

Name

Street Address

City, State, Zip Code

Dear [Name]:

We appreciate the time you recently spent with various members of our staff. As a result, we are happy to offer you the position of [position], at an hourly rate of \$[number]. You will be working with us from [time of day] to [time of day] on [days of the week]. This work schedule is subject to change with advance notice.

As indicated on the employment application that you completed, [dental practice] is an at-will employer and either [dental practice] or you may terminate the employment relationship with or without notice and with or without cause.

I would like to take this opportunity to introduce you to the [dental practice's] mission statement and values. It was developed by our staff and reflects values that are essential in our work environment. We are very proud of [dental practice's] values. I hope they will guide you in your work and your relationships with your colleagues.

On your first day of employment, please report to [name] and please bring your [I-9 information, and license if applicable]. Employment, benefit forms and detailed information regarding our practice's benefit program will be provided to you at that time. In the meantime, should you have any questions, please contact [name]. We look forward to your joining the staff of [dental practice].

Sincerely,

[Dentist]

FIGURE 1.16 SAMPLE LETTER TO NEW EMPLOYEE (WITH PROBATIONARY PERIOD LANGUAGE)

Sample Letter to New Employee

(With Probationary Period Language)

Date

Name

Street Address

City, State, Zip Code

Dear [Name]:

We appreciate the time you recently spent with various members of our staff. As a result, we are happy to offer you the position of [position], at an hourly rate of \$[number]. You will be working with us from [time of day] to [time of day] on [days of the week]. This work schedule is subject to change with advance notice.

As previously discussed with you, each new employee starts out in a probationary period of 90 days. This probationary period gives you and the practice the opportunity to evaluate your performance and clarify expectations. During this 90-day period, your work habits, performance and attendance record will be reviewed and you will receive a written evaluation of your performance. (Employment information will be available to you in the employee handbook during your on-the-job training.) We are hopeful that you will successfully complete this probationary period. Please note that the probationary period does not alter our at-will employment relationship with you. Either you or [dental practice] may terminate the employment relationship at any time and for any reason, with or without notice.

On your first day of employment, please report to [name] and please bring your [I-9 information, and license if applicable]. Employment, benefit forms and detailed information regarding our practice's benefit program will be provided to you at that time. In the meantime, should you have any questions, please contact [name].

We hope you will enjoy working with us. The progress and growth of our dental practice are a result of the dedication of each member of our staff. We are proud of our dental practice, and we are sure you will be also.

Sincerely,

[Dentist]

Rejection of an Applicant

As an act of courtesy, be sure to let other the other job candidates know of your decision. A letter should be sent and their applications can remain on file.

FIGURE 1.17 SAMPLE REJECTION LETTER

Sample Rejection Letter

Date

Name

Street Address

City, State, Zip Code

Dear [Name]:

Thank you for taking the time to meet with us during your recent visit to [dental office]. We enjoyed meeting with you and hope that your visit proved to be informative and interesting.

We were impressed by the number and quality of our applicants, but unfortunately, we were only able to hire one person. Therefore, I regret to inform you that we are unable to offer you a position at this time.

Please accept our best wishes for your future success, and thank you again for your interest in [dental office].

Sincerely,

[Dentist]

Summary

Hiring employees is an important but daunting process, and it may take some practice to develop a seamless system. It is essential to be knowledgeable of state and federal laws during the interviewing and hiring process. While this book offers a general overview of hiring dos and don'ts, it is not state-specific and laws are constantly changing. The advice of experienced legal counsel specializing in employment law can help avoid potentially costly mistakes.

It is also important that your staff be involved in the hiring process since they will be working most closely with the new hire. This has the additional benefit of helping your staff to feel invested in the practice and gives them a sense of ownership and responsibility.

Finally, remember that the more relaxed you are during the hiring process, the more comfortable potential candidates will be. Be sure to encourage an open dialogue, be ready to answer questions, and be positive about the position and your practice.

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Chapter 2

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Chapter 2.

Office Policies and Procedures

Developing clear and concise office policies now will save time, money and aggravation in the future. This chapter outlines some basic office policies and procedures you may want to implement. This chapter is by no means exhaustive, and you may wish to consult an attorney to discuss your own personal office policies and procedures.

Learning Objectives

- **Write a manual introduction and description**
- **Understand the importance of a practice history and mission statement**
- **Develop and manage an office schedule**
- **Create policies for maintaining communal spaces**
- **Describe various types of office closures and how to handle them**

Employee Welcome

The first section of your employee office manual may include a welcome to the new employee, a description of the employee policy manual, and a mission statement for your practice. This chapter provides sample policies for each of these topics, and more.

A “welcome breakfast,” a tour of the office, an invitation to lunch, and words of welcome from each staff member are just some ideas to help your new employee feel like a part of the team.

Sample Welcome

Welcome to our practice. Your decision to join our professional dental team is a wise one. We look forward to getting to know you and to working with you. All of us are committed to serving our patients with compassion, kindness and professionalism. We look forward to your contributions.

Manual Introduction and Description

A brief introduction of the employee office manual is a good place to state the manual's purpose, scope and limitations.

Sample Introduction

This employee manual has been prepared as a guide to our office and employee policies. Review it once a year and/or whenever you have a question about such office policies as vacations, medical benefits, pension plans, etc. We welcome any questions you may have about our policies. Please feel free to share your questions or comments with either the office manager or the dentist.

This manual is not an expressed or implied contract of employment. The procedures, guidelines and benefits set forth in this manual may be changed at any time (with or without notice) by the owner of the practice. Either the practice or any of its employees may terminate the employment relationship at any time with or without cause or notice.

Practice History and Description

Providing a brief history or overview of your dental practice in the employee office manual can help your employees feel more like a part of your team—even if they weren't there from the very beginning.

Practice histories come in various styles and lengths. Yours can be as general or as personal as you would like it to be. The most important aspect is to highlight the key events and accomplishments of your practice in clear, simple language. Below is a sample practice history:

Sample Practice History

Dr. Sarah Brown established Super Smiles Dental Practice in 1996 after graduating from the University of Michigan School of Dentistry.

In 2002, Dr. Brown was pleased to add Dr. Kevin Jones, a graduate of the Marquette School of Dentistry, as an associate.

In 2010, Super Smiles moved into its current location, a newly renovated facility with the latest technology to serve its growing patient base. Dr. Brown and Dr. Johnson look forward to serving the community for many years to come.

Mission Statement

A mission statement is a “thumbnail sketch” of your practice. It directs team members toward the same philosophy, vision and purpose for the practice. In writing one for your practice, think about the following questions:

- What are the primary goals of your practice?
- What about your practice is different from other practices in the area?
- What aspect of your practice makes you most proud?

As with practice histories, mission statements can be brief and to the point, or longer and more detailed. Below is a sample mission statement:

Sample Mission Statement

The mission of Super Smiles Dental Practice is:

- To work together as a team to provide compassionate and complete oral care to every patient who walks through our doors
- To thoroughly educate patients on oral health and preventative care
- To use the latest dental advances to make dental visits as comfortable and worry-free as possible
- To foster a sense of team spirit between patients, staff and community
- To be a positive presence in our community through volunteer work and pro bono services
- To have every patient leave our practice with a healthy, beautiful smile

Office Schedule

An office schedule gives every employee an overview of the hours of the practice, whether the team member is full-time or part-time. It also helps eliminate misunderstanding about scheduling, reducing late attendance and overtime. Be sure that employees are aware that they must adhere to the schedule, even when there are no patients in the office. Many software programs assist with office scheduling and can be helpful when developing your policy.

SAMPLE POLICY

Office Schedule

All office staff members must be in the office during their designated working hours with the exceptions of breaks and lunch. These hours may differ for full-time and part-time employees, and can be confirmed by consulting the master schedule or by contacting the office manager. The dentist schedules patients during the following times, although staff members are expected to be present in the office even when no patients are scheduled:

Monday	10:00 a.m. to 6:30 p.m.	Wednesday	7:00 a.m. to 3:30 p.m.
Tuesday	9:00 a.m. to 5:30 p.m.	Thursday	7:00 a.m. to 3:30 p.m.

Office Appearance

For obvious reasons, the cleanliness of the dental office common areas comes second to that of the operatory. However, spaces such as the waiting room and areas of the business office that are visible to patients, are often the patient's first impression of a dental practice, and it is important to make that impression a positive one. Developing a policy that instills a sense of ownership in your staff can be an effective way to encourage employees to take pride in their surroundings and keep the office neat and orderly.

Employee Rest Area

The employee rest area or break room should be a space where employees are free to relax, have lunch, or attend to personal business during their free time. It should be out of sight of patients or other members of the public. Employee rest areas are also ideal for holding morning huddles, meetings and continuing education classes. Like the office, keeping the rest area clean, including the refrigerator and the microwave if you have them, is the responsibility of every staff member.

Spaces such as the waiting room and areas of the business office that are visible to patients, are often the patient's first impression of a dental practice, and it is important to make that impression a positive one.

SAMPLE POLICY

Office Appearance

All employees have a responsibility to care for the contents and furnishings of the office. Great care and expense have been taken to create a comfortable atmosphere for both patients and staff. The positive contributions of all staff members make a pleasant work environment for everyone. Abuse or neglect of the office or its contents will not be tolerated. Each employee will be responsible for the cleanliness of his or her work area. Feel free to contact the office manager or the dentist with suggestions to improve our office.

SAMPLE POLICY

Employee Rest Area

The employee rest area is a space where employees can spend their free time, such as lunch and breaks. Keeping the employee rest area clean is the responsibility of each staff member. Please remember:

- *Use the refrigerator for short-term storage only. The refrigerator will be cleaned every Friday, and all unlabeled or expired food will be thrown out.*
- *Clean up crumbs and spills, including in the microwave and the refrigerator, as soon as they happen with the supplies provided.*
- *Keep loud phone conversations to a minimum. The rest area is a place to unwind, so let's keep the noise level down.*
- *The furnishings in the rest area have been provided as a courtesy to staff. Please care for them as you would your own.*

Parking Regulations

Unless you live in an area with access to public transportation, most of your staff will drive to your office. If you offer free parking, it is important to have a parking policy in place to protect your practice in case of theft, vandalism, accidents or injuries. A clear policy also helps prevent accidents and misunderstandings by maintaining an orderly and well-organized place to park.

Dentist Absence/Office Closure

Every office needs a plan in place in case of an office closure, whether it is due to vacation, attending a conference, or due to an illness or

disability. First and foremost, patients should be notified well in advance. Special priority should be given to patients whose appointments coincide with the closure and need to be rescheduled.

Designate tasks among your office staff to make sure the office closure process goes smoothly. For example, the receptionist or administrative assistant can work on rescheduling appointments. If the dental office will notify patients of arrangements for handling treatment and emergencies during the closure, the office manager can coordinate the distribution of the notices, whether you distribute them by mail or e-mail, or by calling patients on the phone. You should also decide whether staff must keep their normal business hours even though you are not in the office, whether an associate will cover for you, or if the office will be closed completely.

SAMPLE POLICY

Parking Regulations

Free parking is provided for all employees. In return, the office requires its employees to abide by all parking regulations and procedures. Staff is asked to park in spaces numbered 1-10. Vehicles are not permitted to park overnight or for extended periods of time. This dental practice is not liable for any loss, theft or damage, including vandalism, to vehicles parked on its premises. Additionally, it is not liable or responsible for any injuries, deaths or property damage occurring as a result of the use of a motor vehicle on its property.

SAMPLE POLICY

Dentist Absence/Office Closure

From time to time, it may be necessary to close the dental office. When this happens, we will plan as far in advance as possible. During a planned absence, an associate will cover scheduled patients and the practice will proceed as normal. The office manager will contact patients with appointments during this time to notify them of the change.

If no associate is available, the office will be closed and staffing arrangements will be determined by the dentist. The schedule should be blocked off in advance by the receptionist so that no patients are scheduled during the absence. Any patients who are scheduled should be contacted immediately by the receptionist to reschedule their appointments.

In the event of an emergency or illness, the office manager will make arrangements to contact patients as soon as possible to notify them of the appointment cancellations. Staff should assist the office manager as needed with this task.

For an extended emergency, an associate will cover scheduled patients until the dentist is able to return, and the practice will proceed as normal. The office manager will coordinate a mailing to patients with appointments during this time to notify them of the change.

The letter below is suitable to inform patients of a planned office closure:

FIGURE 2.1 DENTIST ABSENCE/OFFICE CLOSURE

Dentist Absence/Office Closed Letter

Date

Patient

Street Address

City, State, Zip

Dear [Patient]:

This letter is to notify you that our office will be close from [date] to [date]. While the office is closed, I have arranged for Dr. [Name] to handle any dental emergency that may arise during my absence. If you do have to see [him/her], I think you'll be pleased with the quality of care you receive.

Please feel free to call [him/her] at [number]. We will be back in the office on [date]. We know that you have many options when it comes to dental providers, which is why our practice is committed to providing competent and quality patient care and service. We hope to continue serving you and your family for years to come.

Sincerely,

Dentist and Team

Figure 2.2 is an example of a letter which could be sent in the event of office closure due to an unexpected illness or disability:

FIGURE 2.2 DENTIST OUT ON ILLNESS/DISABILITY

Dentist Absence/Office Closed Letter

Date

Patient
Street Address
City, State, Zip

Dear [Patient]:

Dr. [Name] will be out of the office due to illness/disability through date. During this time, [his/her] associate, Dr. [Associate's Name], will be available to meet your dental needs. Dr. [Associate's Name] is highly regarded in the dental field and he/she has worked with Dr. [Name] for number years. Dr. [Name] has the greatest confidence in the professional skills of Dr. [Associate's Name].

If you currently have an appointment with Dr. [Name], you will be seen instead by Dr. [Associate's Name]. We think you will feel very comfortable and confident in [his/her] care. If you have any dental problems or would like to schedule a visit, please call our office at [office number].

As always, we are committed to providing you with competent and quality dental care and patient service and appreciate your understanding. We look forward to Dr. [Name]'s speedy recovery and return to the office.

Sincerely,

Dental Team

Office Closure Due to Inclement Weather or Uninhabitable Facilities

Sometimes office closures cannot be helped, especially during inclement weather or when facilities are rendered uninhabitable, such as in the event of a natural disaster. It is a good idea to have a policy in place to determine how and when employees will be notified of an office closure. For more detailed matters, such as how employees will be paid during the office closure, and if they will need to take personal time or a vacation day, it is best to consult an attorney specializing in employment issues to develop a comprehensive policy.

Sometimes office closures cannot be helped, especially during inclement weather or when facilities are rendered uninhabitable, such as in the event of a natural disaster. It is a good idea to have a policy in place to determine how and when employees will be notified of an office closure.

SAMPLE POLICY

Office Closure Due to Inclement Weather or Uninhabitable Facilities

During periods of heavy snow, severe weather, or other emergency conditions it may become necessary to close the office. This decision will be made at the discretion of the dentist. Every effort will be made to notify staff of the closure as early as possible to avoid unnecessary and potentially hazardous commutes. Staff will be notified of the closure by phone using the phone tree maintained by the office manager, as well as by text.

Summary

Sound office policies and procedures set the tone for your practice, and it is important that every team member is on the same page. Familiarity with office policies can make your practice run more efficiently, especially during busy times when staff may feel overwhelmed.

A practice history and mission statement can also set a professional and cohesive atmosphere, showing the dental team where the practice has been and its path for the future. In particular, a mission statement provides a guideline so that everyone is aware on the core beliefs of the practice.

Chapter 3

Employee Policies

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Chapter 3.

Employee Policies

Communication is the key to effectively managing a dental team. The purpose of this chapter is to help you develop policies to ensure you and your staff are on the same page regarding critical employment and safety issues.

Learning Objectives

- **Define at-will employment, full-time, part-time, temporary, exempt and non-exempt employees**
- **Describe what to include in, and how to store, personnel and business records**
- **Develop policies for employee appearance, dress code and conduct**
- **Address the appropriate use of workplace communications, the Internet and social media in the dental office**
- **Create effective workplace harassment and violence policies**

Employee or Independent Contractor?

In considering policies to include in an employee office manual, a dental practice must, as a threshold matter, understand who is – and who is not—properly considered an employee of the practice. Some practices engage “independent contractors” to perform services for the practice (i.e., individuals from whose compensation the employee does not withhold payroll taxes). Not infrequently, practices will engage associate dentists as independent contractors.¹⁴ Regardless of the label given, however, whether an individual is an employee or independent contractor is a legal question that depends upon the specific circumstances under which the individual performs services for the practice.

If an associate dentist is deemed an employee for federal employment tax purposes, the employer becomes responsible for payroll taxes and withholding taxes under the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and the income tax withholding provisions of the Internal Revenue Code. In contrast, if the associate dentist is considered an independent contractor, the associate is responsible for his or her own income taxes and self-employment taxes.

Generally, a worker is classified as an employee when the employer has the “right to control” the way in which the worker’s services are performed. Employers have the right to control and direct the work of an employee, not only in terms of what will be done, but also how and when it will

be done. In contrast, an independent contractor is subject to the engaging party's control only as to the end results of the work.

The IRS has established a three-part test to determine whether the requisite control exists to establish an employer-employee relationship for federal employment tax purposes. The test includes an assessment of:

- (1) behavioral control (including, for example, how extensive instructions are, who controls what, when and where to work, and the tools to be used)
- (2) financial control (such as who pays for business expenses and how much the person providing services has invested)
- (3) the relationship of the parties (whether there is an agreement, whether benefits are provided, and so forth)

In assessing a particular arrangement, it is important to look at all the factors carefully. Incorrectly classifying an associate or other worker can have serious consequences. Using its criteria, the IRS may decide that an individual a practice has classified as an independent contractor is really an employee. If that happens, the employer could be assessed back taxes and interest. In some cases, improper classification could create personal liability for the person responsible for deducting and withholding payroll taxes.

In addition, dentists as employers must comply with state laws on employment taxes and unemployment insurance contributions which may differ from federal law. Dentists should consult their personal attorneys to ensure that any independent contractor relationship meets IRS requirements and also complies with state laws. The IRS website (www.irs.gov/pub/irs-pdf/p1779.pdf) explains how the IRS determines whether an individual is an employee or independent contractor.

At-Will Employment

The "employee at-will" doctrine states the general rule that when there is no employment contract, either the employer or the employee can break the employment relationship at any time, with or without cause, and with or without notice, as long as the reason for terminating the employee does not violate anti-discrimination laws or is otherwise unlawful. It is important for your employee office manual to address this issue with a clear disclaimer stating that the manual does not imply or create any type of employment contract or right. The ADA publication *Terminating Employment in a Dental Office* provides more detailed information on at-will employment, and is available for purchase at www.adacatalog.org or by calling 1-800-947-4746.

SAMPLE POLICY

At-Will Employment

This dental practice is an at-will employer. This means that either the practice or the employee may terminate employment with or without notice or cause. This employee handbook is not an express or implied contract of employment. This practice reserves the right to change, modify, or delete any provision of this employee handbook at its sole discretion and without notice.

Part-Time, Full-Time and Temporary Employees

The number of hours that determine a full-time or part-time employee in your dental practice may vary from what is typical in other businesses. Each dental practice should define the number of hours for full-time and part-time employees in compliance with federal and state wage and hour laws.

In developing your policies, you should understand the following terms:

Established Position: a position expected to be maintained indefinitely by the practice.

Full-Time Employee: an employee typically designated as one who works 35 to 40 hours each week in an established position.

Part-Time Employee: an employee who is generally is scheduled to work less than 35 to 40 hours a week in an established position.

Temporary Employee: frequently characterized as an employee who is hired for a specific purpose or job for a period of not more than 90 days. This temporary employment may be extended for limited periods.

Do not refer to full-time workers as “permanent” employees because that term may imply that they are not employees-at-will. Instead, refer to them as “full-time” or “regularly scheduled employees.” Some state laws may have different distinctions between full-time and part-time employees—and on how working hours are calculated. Get legal or professional advice about federal requirements and the specific laws in your state. Your state wage and hour rules may also be on the Internet.

In general, though, working time includes all the hours your employees are required to be at the practice. Generally employees are not paid during their lunch breaks. They must, however, be completely relieved from duty for the purpose of eating regular meals. If you choose to pay employees during their lunch break, you must be consistent and pay all employees during this time period. Coffee breaks are not deducted from work hours. For more information, visit the U.S. Department of Labor website at www.dol.gov.

You may figure work hours the same way for all full-time, part-time and temporary non-exempt employees (see Exempt and Non-exempt Employees section that follows). For example, if your full-time dental assistant has a paid lunch hour, your full-time receptionist must have a paid lunch hour as well. Your part-time hygienist would not need to be paid for lunch. You do not have to provide the same “time-off” benefits to full-time, part-time and temporary employees. But again, you must be consistent across all employees within each category (full-time, part-time, or temporary). For example, you might decide to grant two weeks’ vacation annually to all full-time employees who have been with the practice for at least a year. All part-time employees might be granted three days paid vacation each year after the conclusion of a successful training period.

These policies do not apply to independent contractors. As a reminder, you should consider having a written agreement with each independent contractor that specifies the terms of your relationship. See the first section in this chapter, “Employee or Independent Contractor?” for more information about distinguishing between an employee and an independent contractor.

SAMPLE POLICY

Part-Time, Full-Time and Temporary Employees

At this practice, a full-time employee is one who is scheduled to work a minimum of 35 hours each week in an established position. A part-time employee is one who is scheduled to work fewer than 35 hours a week in an established position. A temporary employee is one who is hired for a specific purpose or job for a period of not more than 90 days. This temporary employment may be extended for limited periods. Non-exempt full-time, part-time, and temporary employees are paid for a half-hour lunch break each working day.

Exempt and Non-Exempt Employees

Employees are classified as “exempt” or “non-exempt.” Non-exempt employees are those who are not exempt from (that is, they are covered by) the provisions of the Fair Labor Standards Act (FLSA), a federal law administered by the U.S. Department of Labor, which specifies wage and overtime requirements for employees. Exempt employees are exempt from (or not covered by) FLSA. In practical terms, one can generally think of this distinction as hourly (non-exempt) and salaried (exempt) staff.

The “Fair Pay” rules are a set of overtime regulations issued in 2004 by the Wage and Hour Division of the United States Department of Labor. Under the “Fair Pay” rules, employees who earn \$23,660 a year (\$455 a week) or less are eligible for overtime, irrespective of whether they are exempt from the law.

Currently, exempt employees include executives, administrators or professionals who spend more than 60 percent of their time on duties requiring the exercise of independent judgment. Non-exempt employees hold secretarial/receptionist, clerical, technical and building maintenance positions. However, the new regulations change the duties and salaries “tests” that must be passed before a “professional” is classified as an exempt employee.

It is important to note that according to the “Fair Pay” regulations, dental hygienists qualify for exemption from the overtime provisions only if they have successfully completed four years of pre-professional and professional study in an accredited college or university approved by the Commission on Dental Accreditation

The regulations discuss the application of the salary test to employed dentists, dental hygienists and dental assistants. With the possible exception of other dentists you employ and your office manager, most of your staff will likely be non-exempt. Therefore, their wages and overtime requirements are protected by the FLSA. However, stay abreast of FLSA regulations, and keep in mind that specific determination of exempt or non-exempt status requires a careful review of FLSA provisions and state regulations by a qualified attorney.

Probationary Period

A probationary period is a time to clarify your expectations and evaluate your new employee’s performance. Typically, the length of the probationary period is 90 days, and a formal review is written after it is completed. This review should be placed in the employee’s personnel file.

At the time of hire, a new employee should be made aware of a probationary period policy if

SAMPLE POLICY

Probationary Period

The first 90 days of employment is a training period for new employees known as a probationary period. This is a chance for you to get to know our practice, patients, and professional colleagues. It is also an opportunity for us to get to know you. During the probationary period, your work performance and attendance record will be reviewed by the dentist and/or the office manager.

At the successful conclusion of your 90-day probationary period, you will receive a formal performance evaluation session with the dentist. Please note that the at-will status of the employees of this practice does not change following a successful completion of the training period. (“At-will” employment status means that either you or the practice is free to end the work relationship with or without cause or notice at any time during the course of employment.) To help ensure the prompt provision of care to our patients, we request employees who plan to resign to submit letters of resignation with a minimum of two weeks’ notice.

one exists. This policy should also be stated in the employee office manual. The employee office manual should contain an acknowledgement form, and each employee should be required to review the manual and sign the form. In addition, if you are an at-will employer, the probationary period policy should state that progressive discipline (including probation) is subordinate to the dental practice's at-will relationship with its employees.

If it becomes apparent that a new employee is not going to work out, even after he or she is given reasonable opportunity to improve performance, the two parties should part ways as soon as possible. This gives you and your employee the opportunity to find a better fit elsewhere. Document the performance problems in case you need to prove that the termination took place for non-discriminatory reasons.

Training Policy

An effective training program can help employees improve quality, productivity and compliance with dental office policies and procedures. Today's dental team needs clinical, technical, business and people skills, and must learn to work together and communicate effectively. Training can develop and enhance these skills.

For the new dental team member, a well-organized procedural manual and employee office manual (handbook) can help the new employee make the transition into the culture of your dental practice. Your staff can use the procedural manual and the employee office manual for continuing training and for reference.

We will address more specific training recommendations, including HIPAA and OSHA programs, in chapter 4.

Personnel Records

Personnel records should be kept in a safe place, such as a fire-proof metal file. State regulations for record keeping vary, but may cover such documents as payroll records, time sheets, injury and safety records,

workers' compensation records, health insurance participation, medical records and retirement plans.

State laws also cover access to personnel files. Generally, employees have the right to inspect their own personnel records, and the records should be kept on practice premises. To protect your employees' rights to privacy, keep personnel records under lock and key.

Make sure that employees notify the office of a change of address, telephone number, marital status, number of dependents, dependent status or work status as soon as possible after the change so their personnel records will be current.

The employee's personnel file may contain the following documents, but this list is by no means all-inclusive:

- Original employment agreement signed by employer and employee
- Job description
- Application for employment with resume
- Performance reviews
- Salary increases
- Current credentials, if applicable
- Employment eligibility verification (Form I-9) with attached documentation (e.g., copies of driver's license and social security card)
- Current W-4 form for employee's withholding allowance
- Current vacation/sick-personal days accrued sheet
- All mandatory OSHA documentation
- Time-off requests
- Notes pertaining to injury, pregnancy, etc.
- Jury duty summons
- Documented conversations pertaining to employment, reviews, etc.
- Continuing education

Federal law requires that specific records be maintained separately from the main employee files. Typically, medical information should not be kept in an employee's personnel file. For example, the Americans with Disabilities Act (AwDA) requires employers with 15 or more employees

to keep all information regarding employee medical examinations in an separate, confidential file that is available only under limited conditions. States may impose similar requirements on employers with fewer employees.

In addition, it is prudent to treat documents relating to health status, an employee's age or a workers' compensation claim as confidential, whether or not it is required by law in your jurisdiction. This can help protect you from an employee's filing a discrimination claim based on inappropriate access to or use of the information.

Many states have enacted data security laws to protect personally identifiable information (PII) such as social security numbers and credit card numbers. Depending on the jurisdiction, a person or entity that collects PII may be required to notify the individual in the event of a breach, use specified methods when disposing of the data, or implement other procedures to protect PII. These state laws apply to the PII of any individual, not only employees. Federal and state employment laws may require the protection of additional categories of information. If an employee is a patient, his or her dental records and other information related to treatment and payment should be protected in compliance with applicable laws such as HIPAA. Listed below are categories of information that your dental practice may be required to keep well protected. This is not a

comprehensive list, and you should include other categories of information as necessary:

- Social security number
- Credit or debit card number
- Driver's license number
- Date of birth
- Gender
- Age
- Marital status
- Record of dependents
- Medical history
- Citizenship
- National origin
- Religion

Employee Attendance

Because the contribution of every team member leads to quality care for patients in the practice, a clear and strongly worded attendance policy is a must. Conversely, a weak or inconsistent attendance policy punishes your most dedicated employees, because they may assume the work of those who aren't in attendance. The sample policy below is strong, reasonable and clear.

Time and Attendance Reports Policy

A time and attendance report policy can help

SAMPLE POLICY

Employee Attendance Policies

Our practice places a high value on regular attendance. Frequent absences diminish the quality of care that we are able to provide to our patients. Excessive absence or tardiness may be reflected in performance evaluations. It may also result in disciplinary action and eventual termination.

SAMPLE POLICY

Time and Attendance Reports Policy

All employees report their attendance/actual hours worked on a two-week attendance report approved by both the employee and the office manager or dentist. Time reports for the previous two-week period must be submitted to the business manager no later than Tuesday of the week following a payday.

prevent misunderstandings regarding hours worked and pay periods. For obvious reasons, this policy should be absolutely clear to employees.

Call-In and Tardiness Policy

In addition to an attendance policy, you should also have call-in and tardiness policies in place. As mentioned previously, the contribution of every team member leads to quality care for patients in the practice. Therefore, strongly worded call-in and tardiness policies are a must.

Lunch and Break Policy

A lunch and break policy is essential to ensure adequate coverage in the dental office during break times.

Travel Expenses Reimbursement Policy

Continuing education is a wise investment for your practice. Offering to reimburse travel expenses to dental meetings, seminars and other programs may give your dental team the added encouragement to participate.

SAMPLE POLICY

Call-In and Tardiness Policy

All employees should report an absence or tardiness to the office manager or dentist no later than one hour after his or her scheduled starting time. If an employee is absent for three (3) consecutive scheduled workdays without notifying the office manager or dentist, this will be treated as a voluntary resignation. If an employee is absent for fewer than three (3) consecutive days without notification, he or she may be subject to disciplinary action.

SAMPLE POLICY

Lunch and Break Policy

Our dental office will close daily between 12:00-1:00 p.m. for lunch. Be sure calls are forwarded to voicemail before the lunch break. Employees are also allowed to take two rest periods of 15 minutes, one in the morning and one in the afternoon. The staff lounge or the outdoor patio can be used for break periods. Be sure there is adequate coverage in the office during your break period.

SAMPLE POLICY

Travel Expenses Reimbursement Policy

This practice will reimburse full-time employees for pre-approved continuing education travel expenses such as meals and transportation. Prior to departure, the dentist or office manager must approve travel. Reasonable travel expenses must be documented with receipts, submitted and approved for reimbursement. This practice will offer a \$50 per diem for meals. For transportation, the rate of reimbursement for taxis is actual cost. For drivers, the reimbursement rate is 35 cents per mile. There will be some instances when the dental practice will cover all staff continuing education costs (i.e. ADA Annual Session, etc.).

Employee Conduct

Picture this: A receptionist who slouches in ill-fitting clothes. He or she frowns at patients and speaks only when they approach the front desk. Now picture this: An employee stands erect and smiling in a clean, well-pressed uniform. He or she greets patients by name as they enter the practice. Which picture is more appealing? The image of your practice depends on your employees. Your professional team speaks for you—as well as for themselves—whenever they come in contact with patients.

This section offers guidelines as to how the dental team should behave within the standards of your dental office during the workday. When explaining employee conduct in your employee office manual, you may also want to discuss the following issues: office courtesy, ethical conduct, work rules and other topics you feel you should cover.

Work Rules Policy

Your employees need to know the rules of your dental office to maintain a professional, pleasant, safe, productive and profitable place to work.

SAMPLE POLICY

Work Rules Policy

This dental practice wants to maintain a professional, pleasant, safe, productive and profitable workplace. Most of all, we want members of the dental team to be happy! These work rules will help maintain this positive work environment. Failure to adhere to these work rules may be cause for discipline, up to and including termination.

- *Comply with all rules and regulations that apply to our dental practice, (for example, safety, security, and privacy).*
- *Treat coworkers, patients and the public honestly and ethically. Refrain from unlawful, dishonest or immoral conduct, such as stealing, lying and falsification of or tampering with records.*
- *Do not use profane or abusive language, refuse to perform your assigned work, or interfere with the work of other employees.*
- *Report to work sober and free from the influence or effects of illicit drugs, alcohol or controlled substances. You may not possess nor use unauthorized controlled substances or alcohol on the job.*
- *Arrive at work on time and as scheduled, and report back to work on time after scheduled lunch and break times. Avoid excessive absenteeism, tardiness and over-extended break and lunch periods.*
- *Do not damage the dental practice's facility or property.*

Personal Appearance and Dress Code Policy

A professional-looking staff leaves a lasting, positive impression. Every member of your dental team represents the quality of service you provide to patients and the community. Appropriate attire, good grooming and cleanliness all show that your team recognizes their importance to the success of the practice. Ask your employees to rely on their own discretion and good sense, as well as practice guidelines, regarding personal appearance in the workplace.

You can decide whether you wish to require employees to wear uniforms, and whether uniform requirements are different for clinical and office staff. Some dental practices allocate a certain dollar amount per employee per year as an employee benefit to help defray the cost of uniforms.

Following are sample guidelines for personal appearance in a dental practice.

SAMPLE POLICY

Personal Appearance and Dress Code Policy

Cleanliness. *Patients judge our adherence to infection control procedures by the personal hygiene of every employee. Daily showers, clean hair, deodorant and mouthwash are recommended for everyone. Make-up should be subdued. Please remember that patients and colleagues may be sensitive or even allergic to cosmetics with strong scents, such as perfume, cologne or shaving lotion, and use accordingly.*

Uniform. *Uniforms are to be worn by all clinical and office staff. Shoes should be clean, comfortable and soft-soled. Tennis shoes are permitted provided they are all or mostly white.*

Hair and Nails. *In the interests of patient comfort and personal safety, hair should be groomed to stay off the face and out of the way of work. Fingernails should be free of polish, clean and neatly trimmed.*

Accessories. *In general, do not wear jewelry that makes noise or dislodges easily, or body piercings other than earrings. Tattoos should not be visible. Please leave political buttons and similar symbols out of the office to help all of our patients feel comfortable with our practice. Name badges should be worn at all times.*

Personal habits. *Please do not eat or chew gum in areas where you may come in contact with patients. The entire office is a smoke-free environment for employees, patients and visitors.*

Accommodation. *If the Personal Appearance and Dress Code Policy conflicts with your religious beliefs or practices, you may ask for an exception to the policy as a reasonable accommodation. The dental practice will attempt to accommodate employees who are required to maintain a particular physical appearance or manner of dress in accordance with the tenets of their religion, provided the accommodation does not impose undue hardship on the practice or present safety concerns.*

Smoking Policy

Your employees should know where they can and cannot smoke in the dental practice facility. Many states have banned smoking to varying degrees. In some states, the smoking ban applies only to restaurants and workplaces, while in others it may apply to all enclosed, public spaces. Some laws may require that smokers maintain a certain distance from the building's doorway or even the building itself. Consult an attorney to learn about the specific laws for your state.

Substance Abuse Policy

According to the US Department of Health and Human Services, there are many reasons to implement a substance abuse policy. For example, a written policy:

- may be required by law or by your insurance carriers
- provides a record of your efforts and a reference if someone challenges your policy
- is easy to explain to staff¹⁵

Your substance abuse policy should be easy to understand and tailored to the specific needs of your practice. The policy may include a reference to prescription medications in addition to addressing alcohol and illegal substances. Further information on maintaining a drug-free workplace, as well as possible consequences for workplace violations, is available in the ADA publication *Terminating Employment in a Dental Office*. Remember that laws may vary from state to state, so be sure to review your substance abuse policy with an attorney familiar with drug-free workplace laws before implementing it. Visit the U.S. Department of Labor website at www.dol.gov/workingpartners/welcome.html for resources about substance abuse in the workplace, including information about drug-free workplace policies and safety and health issues.

SAMPLE POLICY

Smoking Policy

Smoking is prohibited in our dental practice facility. However, smoking is permitted on the outside patio during employee break periods.

SAMPLE POLICY

Substance Abuse Policy

This practice is committed to maintaining a drug-free workplace for the safety and benefit of all its patients and staff. All employees are prohibited from being under the influence of alcohol or illegal drugs during working hours.

The unlawful manufacture, distribution, dispensing, sale, transfer, purchase, possession or use of a controlled substance is strictly prohibited in all employee facilities at all times. Violators of these prohibitions may be subject to immediate termination.

No criminal activity will be tolerated in the office. These activities may include (but are not limited to) phoning in unauthorized prescriptions in the dentist's name, assisting drug-seeking patients in obtaining unauthorized prescription medication, and ordering controlled substances or other prescription drugs from pharmaceutical companies without the dentist's knowledge.

Any employee convicted of criminal drug offenses, whether they occur on or off the premises, may be subject to disciplinary action up to and including termination.

Confidentiality Policy

Dental professionals have access to confidential matters and sensitive information about patients and other individuals. Your practice must protect this information in compliance with both ethical and legal requirements.

Many states have data security laws that require notification in the event of a breach of information such as a Social Security number, credit or debit card number, drivers' license number, or other category of information, whether or not the information pertained to a patient.

In addition, inappropriate disclosure of private information can expose your practice and your employees to a lawsuit for damages under state tort laws.

Patient Privacy. Federal and state law requires safeguards for information pertaining to patients and other individuals such as patients' relatives, household members, and employers. Information such as HIV status, mental health diagnoses and addiction receive additional protection under certain state and federal laws.

If your practice is a HIPAA covered entity, it must comply with the HIPAA privacy, security, and breach notification provisions as well as with applicable state law that is not preempted by HIPAA. A dental practice that transmits certain health information (including claims) in electronic form, either directly or indirectly through a vendor or billing service qualifies as a HIPAA covered entity. HIPAA is a federal law that concerns a category of information known as "protected health information" (PHI) which can include a wide variety of information, such as billing records, schedules and dental plan information, in addition to dental records.

HIPAA requires covered entities to develop and implement written policies and procedures in compliance with:

- The HIPAA Security Rule, which requires safeguards to protect electronic protected health information
- The HIPAA Privacy Rule, which applies to protected health information in all formats (electronic, oral, and hard copy information such as paper documents, photographs and films)
- The HIPAA Breach Notification Rule, which requires covered entities to notify the individual(s), the U.S. Department of Health and Human Services, and in some cases the media of a breach of unsecured protected health information.

Many states have data security laws that require notification in the event of a breach of information such as a Social Security number, credit or debit card number, drivers' license number, or other category of information, whether or not the information pertained to a patient.

Sample HIPAA policies and procedures are beyond the scope of this publication, but are available in the *ADA Practical Guide to HIPAA Compliance Privacy and Security Kit* available at www.adacatalog.org or by calling 1-800-947-4746. However some general examples of the patient confidentiality issues that should be addressed in your practice's privacy policies and procedures include:

- Speaking softly or privately with patients so other patients do not overhear
- Keeping in mind that even a well intentioned expression of sympathy over a medical diagnosis or sharing joy with a patient who has had a difficult time conceiving could be breaches of confidential information if overheard by others
- Keeping the appointment book, case histories, health history forms and other confidential papers where patients cannot easily see them
- Not discussing the dental treatments or personal information of patients outside the practice
- Not revealing information about a patient even to family members without the patient's permission, unless you are speaking to a patient's legal representative. A patient may not have informed other family members to know about his or her health status, and may not even want other family members to know this information.

HIPAA requires covered entities to train workforce members to comply with these policies and procedures. For more information about the HIPAA workforce training requirements, see Chapter 4: Employee Training.

Data Security. Many states have adopted laws that require safeguards for sensitive personally identifiable information (PII) that can be used for identity theft. Depending on the state, protected PII may include social security numbers, credit and debit card numbers, driver's license numbers, and other categories of information. These laws generally require notification in the event of a breach, and may also require specified methods of disposing of PII and other safeguards. A qualified attorney can provide information about your state's requirements. Your employees should be trained to keep PII confidential, to observe required safeguards, not to collect unnecessary PII, and immediately to report any suspected breach of PII.

Personnel Files. State laws that apply to PII, such as social security numbers, are likely to apply to PII stored in employment records (personnel files), as well as information pertaining to patients. In addition, your state may have enacted laws that

impose additional confidentiality requirements regarding personnel files. The laws of your state may limit an employer's right to disclose certain information to third persons, give employees rights to inspect their employment records, and may define documents that are regarded as employment records.

Employers may be required to collect certain medical information about employees or their family members under federal statutes such as the Americans with Disabilities Act (AwDA) and the Family and Medical Leave Act (FMLA). This information should be kept separate from the personnel record in a confidential medical file and protected in compliance with federal requirements. For example, an employer may not give supervisors and managers unlimited access to employee medical files, although an employer may give a supervisor or manager information concerning necessary work restrictions and accommodations.

An employee's dental record is protected health information under HIPAA, even though employment records held by a covered entity dental practice in its role as employer are not protected by HIPAA.

Consult an experienced employment lawyer to determine the legal requirements that apply to the personnel records of your practice. Develop policies and procedures to maintain the confidentiality of your personnel files, and train your staff to observe appropriate behavior with respect to employees' confidential information.

Electronic Communications Policy

Electronic communications have greatly enhanced the way healthcare and dental professionals provide care. It's a good idea for any business to develop an electronic communications policy to ensure that electronic communications are being used in a professional and responsible manner. This is especially true for dental practices, where confidential information is handled on a daily basis.

Employees should not abuse e-mail communications, and they should know that you have the right to monitor their messages, even if you never really intend to do so. In addition, employees who circulate inappropriate jokes or download pornographic or copyrighted material from the Internet can place their employers in danger of sexual harassment suits, discrimination suits, and copyright violations. An electronic communications policy can help protect you from these possible scenarios, or from an employee who can claim that you violated his or her right to privacy.

Simply put, the policy should state that anything your employees create, store, send, or receive on a dental practice computer is not private, and that messages and files could be reviewed at any time, without notice. The policy should also note that e-mail communications should be created, drafted, and sent with the same care as all other dental office correspondence.

Employees should not abuse e-mail communications, and they should know that you have the right to monitor their messages, even if you never really intend to do so.

Keep in mind that if you're a HIPAA covered entity, your HIPAA privacy, security, and breach notification policies and procedures will apply to electronic communications containing protected health information (PHI). If an electronic communication is appropriately "secured" by utilizing specified encryption processes, HIPAA would not require notification in the event of a breach.¹⁶

State data security laws may apply to personally identifiable information (PII), such as a social security number or credit card number, that is contained in an electronic communication, whether the PII pertained to a patient, a patient's family member, an employee or any other individual (see "Data Security" above).

For information about developing HIPAA privacy, security and breach notification policies and procedures, visit the website of the U.S. Department of Health and Human Services at www.hhs.gov/ocr/privacy/hipaa/understanding. The *ADA Practical Guide to HIPAA Compliance Privacy and Security Kit* contains information about dental office HIPAA compliance, including sample policies, procedures, forms, and other documents. The publication is available online at www.adacatalog.org or by calling 1-800-947-4746.

SAMPLE POLICIES

Electronic Communications Policy

It is important to remember that all communications sent and received electronically are subject to this dental practice's Electronic Communications Policy. This policy applies to staff (workforce members) and is enforced vigilantly.

Electronic communications are generally not private and may not be kept confidential. They may be stored, forwarded to others, inadvertently transmitted to the wrong person, or copied or printed and passed on—without your knowledge or consent. Years later, electronic communications may be subject to discovery in lawsuits or used out of context in some other manner that could be very damaging to our practice or to you personally. It is very important for staff to follow this policy carefully.

Our dental practice HIPAA privacy, security and breach notification policies and procedures apply to electronic communications containing protected health information, such as a patient's name and treatment, payment or scheduling information.

Violation of Policy

As our dental practice increasingly conducts business electronically, it is important for everyone to understand and observe our policy regarding the use of electronic communications. This policy, which is now part of the employee office manual, provides the general framework for conducting business and any other communications over the Internet or other electronic data communication networks. Any employee who violates this policy or uses electronic communications for improper purposes shall be subject to discipline, up to and including termination. The practice has the right to monitor and review all electronic communication produced by our practice.

Electronic Communications Use

Our dental practice provides electronic communications, including voicemail and e-mail, as communications tools for conducting the practice's business. No other use of our practice's electronic communications is authorized. In addition, the electronic communications tools provided by our practice may not be used to solicit or used for commercial ventures, religious or political causes, outside organizations or other non-job-related solicitations.

Individuals who use practice-provided electronic communications for personal use do so at their own risk. The practice assumes and will share no responsibility for any wrongdoing, such as incidents of harassment, slander, malice, defamation, copyright or trademark violations or any civil or criminal actions that occur or are alleged to have occurred through the personal or other unauthorized use of the practice's electronic communications. The responsibility and defense against such actions or claims is solely that of the individual. The practice disclaims any and all liability to anyone, including the practice's staff who use the electronic communications for any purpose other than conducting this practice's business.

SAMPLE POLICIES

Conducting Business Electronically

Electronic messages should be drafted with the same thought and concern devoted to other written materials such as letters, memoranda or confidential patient health information. The role of proper judgment in this process is paramount. As a general rule, electronic communications should not be used for sensitive communications and all communications containing protected health information (PHI) should conform to our dental practice HIPAA policies and procedures.

Electronic communications may not be used to send (upload) or receive (download) copyrighted materials, trade secrets, proprietary financial information or similar materials without prior authorization.

Electronic communications may not be used to create any offensive or disruptive messages, such as messages containing sexual implications, or any other comment that could be viewed as inappropriately addressing someone's age, race, gender, sexual orientation, religious or political beliefs, national origin or disability.

Records and Electronic Communications

Records of electronic communications should be kept in accordance with the guidance for written records set forth in the practice's records retention policy, which should be consulted for specific guidance. In other words, the guidelines established for traditional paper documents will govern proper retention or destruction of electronic communications. When it is appropriate to destroy information in accordance with our practice's records retention policy, electronic information should be deleted from the computer network, hard drive, and other portable media storage devices in compliance with our HIPAA policies and procedures.

For information about developing HIPAA privacy, security and breach notification policies and procedures, visit the website of the U.S. Department of Health and Human Services at www.hhs.gov/ocr/privacy/hipaa/understanding. The ADA Practical Guide to HIPAA Compliance Privacy and Security Kit contains information about dental office HIPAA compliance, including sample policies, procedures, forms and other documents. The publication is available online at www.adacatalog.org or by calling 1-800-947-4746.

Internet and Social Media Policy

A comprehensive policy regarding employee use of the Internet and social networking is necessary in today's wired society. These tools are very useful for building your practice and communicating with patients, but they are just that: business tools. While you may choose to allow your employees limited personal use of the web, it is important to have a policy in place to curb excessive use and abuse.

SAMPLE POLICIES

Internet Use

Employees of this dental practice should use the Internet strictly as a business resource. Because it is a business resource, all transmissions are property of this practice. Therefore, we have the right to access, search and monitor all Internet activity conducted by employees. Employees should not expect their use of the Internet to be confidential or private.

We understand that occasionally you may need to take care of personal business. We ask that you limit your personal use of the Internet to your lunch hour or your break. Excessive Internet use that goes so far as to interfere with the employee's work duties will not be tolerated.

Using the Internet to access websites that are discriminatory, offensive, pornographic or obscene will not be tolerated.

Violators of this policy may be subject to disciplinary action up to and including termination.

Social Networking

Many people participate in social networking sites, whether for personal or for business purposes. Anything you write or post is your responsibility. Use common sense as your guide, and think before you post. This policy applies to, but is not limited to:

- *Multi-media and social networking websites such as MySpace, Facebook, LinkedIn and YouTube*
- *Blogs*
- *Wikis such as Wikipedia and other sites where text can be posted.*

Personal Use

If you choose to participate in social networking during your personal time, please keep the following guidelines in mind:

- *Be respectful of your coworkers. Disparaging, discriminatory, offensive, sexual or other unprofessional postings about coworkers may be considered harassment. Such postings may not only be subject to disciplinary action in the workplace, but also to legal action by the target of these postings.*
- *You are prohibited from posting any of the practice's confidential or proprietary information.*
- *Posting or discussing information about a patient on a social networking site is a violation of our HIPAA policies and procedures.*

- *Remember, you are leaving an Internet footprint. Any post can be copied, saved and forwarded by others. It will be around and accessible for a long time.*
- *If you are questioning whether a comment or an image is appropriate for posting, the answer is probably no.*

Professional Use

If the practice maintains a website or a social networking page, please remember the guidelines below:

- *Do not post copyrighted or trademarked content without permission from the content owner or a citation, as appropriate.*
- *Do not disclose any of the practice's confidential or proprietary information.*
- *Do not post information about a patient, employee or another individual, including a testimonial, photograph, radiograph or even a name, without the dentist's approval and the appropriate written consent, authorization, waiver and release signed by the patient.*
- *All postings on the dental practice's social media sites will be monitored for compliance by a designated individual in the practice. Keep in mind that if your practice has a policy to monitor media sites and fails to do so (or to act on information discovered through monitoring), it could be exposed to liability. Inappropriate, derogatory or disparaging postings will be removed at the dentist's discretion.*
- *Employees may not claim to speak on the practice's behalf unless they have been authorized to do so by the dentist. The dentist has final approval on these postings.*

Cell Phone Policy

Cell phones are ubiquitous. Developing a basic policy for their use should be a part of your employee office manual.

SAMPLE POLICY

Cell Phone Use

Cell phone use, including but not limited to calling and texting, should be limited to break and lunch periods unless there is a justifiable emergency. Cell phone use should take place in the breakroom or in another part of the office that is not visible to patients and where you will not disturb your coworkers. Cell phone ringers should be set to silent during working hours. Employees are prohibited from using cell phone cameras or video recorders on the premises of this dental practice, including, but not limited to, operatories, treatment rooms, waiting rooms and administrative areas. Excessive, unnecessary use of your cell phone may result in disciplinary action, up to and including termination.

Records Retention Policy

Certain laws such as HIPAA, the Federal Insurance Contribution Act (FICA), and the Federal Unemployment Act (FUTA), among many others, require dental practices to maintain records. State laws and participating provider contracts generally specify the time following the last patient visit that records must be maintained. For children's records there are slightly different requirements. These records must be kept for a certain period after the child reaches the age of majority. With this in mind, having a clear and comprehensive records retention policy is of vital importance. A records retention policy educates staff on the retention and destruction of not only a practice's patient-related documents, such as files and dental records, but also business records.

In addition to complying with the legal requirements that pertain to patient records, small businesses such as dental offices must also retain certain business records. Records maintenance is important to help with the following:

- Monitor the progress of your business
- Prepare financial statements
- Identify sources of revenue
- Keep track of deductible expenses
- Prepare tax returns
- Support items reported on your tax returns

Figure 3.1 shows examples of the types of business records you should keep. The second column has been left intentionally blank because record retention periods vary by state. Consult with an attorney who is experienced in these matters to develop your own schedule and include it in your employee handbook or office policies and procedures.

FIGURE 3.1¹⁷

Record Type	Retention Period
<i>Tax & Financial File</i>	
Period	
Tax & Financial File	
Accounts payable ledger & schedule	
Accounts receivable ledger & schedule	
Audit/accountant annual report	
Bank statements (monthly)	
Capital asset records	
Cash receipt journal	
Checks (cancelled – see exception below)	
Checks (cancelled for important payment – i.e. taxes, purchases of property; file with transaction)	

Contracts and leases (expired)	
Contracts, mortgages & leases (still in effect)	
Deeds, mortgages & bills of sale	
Deposit books & slips (duplicate)	
Depreciation schedules	
Financial statements (yearly)	
General ledgers	
Income tax returns, worksheets and related documentation	
Insurance policies (expired)	
Insurance records, current accident reports, claims, policies, etc.	
Inventory of products, materials & supplies	
List of accounts (assets, liabilities, revenue, expenses, etc)	
Petty cash vouchers	
Retirement plan records (documents, investment records, allocations)	
Vouchers for payments to vendors, employees, etc. (includes allowances & reimbursement of employees, etc. for travel & entertainment expenses)	
Employment Records	
Applications (not hired)	
Personnel records (after termination)	
Payroll records, taxes & summaries	
Time sheets, cards or time clock	
Training manuals	
Workman compensation records	
Patient	
Daysheets, schedule	
Patient billing/payment or fee statements	
Third-party insurance claims, records & correspondence (EOBs)	

HIPAA	
HIPAA requires covered entities to retain a number of documents. For example: • Security, Privacy and Breach Notification policies and procedures • Notice of Privacy Practices • Business associate agreements • Communications required by HIPAA to be in writing, such as breach notification • Actions, activities or designations required by HIPAA to be documented, such as training, assessments of suspected breaches, acknowledgment of receipt of the Notice of Privacy Practices, and authorizations of a use or disclosure of protected health information	A HIPAA document must be retained for six years from the date of its creation or the date when it was last in effect, whichever is later. A covered entity must permit the U.S. Department of Health and Human Services access to certain information, including its HIPAA compliance documentation, that is pertinent to ascertaining compliance with HIPAA.
Other	
Accident reports/claims (settled cases)	
Controlled substance copy	
Correspondence, routine with patients or vendors	
Correspondence (legal or important)	
Legal agreements (partnership, associateship)	
Medicare billing records	
OSHA records (such as logs and summaries)	

If space is an issue, you may want to consider storing your records at an off-site location, transferring your records to microfilm or microfiche, or scanning your records to store them digitally. This information should be noted in your record retention policy. The policy should also address the proper method of record destruction at the end of the retention period.

Some HIPAA Considerations Related to Document Retention and Destruction

Business Associates. If a HIPAA covered entity stores protected health information offsite, or gives protected health information to a shredding firm for destruction, the offsite storage or disposal entity is likely to be a HIPAA business associate. The covered entity must require a business associate to sign an appropriate business associate agreement. It is also prudent to inquire about the business associate's safeguards, such as policies and procedures and workforce training, and to inform the business associate about the covered entity's HIPAA policies and procedures. Before turning protected health information over to an outside entity, it is prudent to check the identification of the entity's representative if he or she is unfamiliar to you.

Digital Storage. Transferring patient information to an unencrypted CD-ROM, flash drive or other digital media can lead to a breach of protected

health information because such media are easily lost and difficult to keep track of. Dental office policies and procedures may prohibit storage on such media or require appropriate encryption. If protected health information is scanned and stored on an information system or network, dental practice policies and procedures should address safeguards for the information in storage.

Securing Protected Health Information. The HIPAA Breach Notification Rule requires notification in the event of a "breach" of "unsecured" protected health information. Protected health information is "unsecured" if it has not been secured using the technologies and methodologies specified by the U.S. Department of Health and Human Services (HHS).¹⁸ Storing "unsecured" protected health information exposes a covered entity to a possible breach. When the appropriate retention period ends for protected health information, a covered entity should destroy it by a means that renders the information "secured" under the Breach Notification Rule.

SAMPLE POLICY

Records Retention

Records retention is an important responsibility of any dental practice. Records are divided into two categories, patient records and business records.¹⁹

Patient Records

Patient records must be retained for a certain period of time in order to comply with legal and contractual obligations. The following chart shows the retention period for different types of patient records:

INSERT CHART WITH APPROPRIATE RETENTION PERIODS

Business Records

Business records must be retained for a certain period of time for reasons such as the preparation of financial statements, as well as tax purposes. The following chart shows the retention period for different types of business records:

INSERT CHART WITH APPROPRIATE RETENTION PERIODS

For more information on the file retention policy, please contact the office manager.

Food and Drink Policy

As you know, cleanliness and proper infection control are vital for patient comfort and safety. Therefore, your food and drink policy should clearly define when and where food and drink can be consumed.

Conflict of Interest

An employee has a conflict of interest when his or her personal or professional activities may be at odds with the best interest of the dental practice. Employees in your dental practice have an obligation to be impartial in matters concerning the practice, its patients and potential patients, and the individuals and entities with which the practice does business.

Potential conflicts of interest may stem from an employee's second job, romantic or family relationships, or being a member of a professional board or committee. An example of a conflict of interest is if an office manager's significant other works for a dental supply company, and the manager orders only from that company without opening bids to other companies. Another example is if a dental hygienist moonlights at a dental practice which competes directly with yours.

Some conflicts of interest may risk violating federal fraud and abuse laws that protect federal health care programs such as Medicare and Medicaid. Fraud and abuse laws carry significant civil monetary penalties, and in some cases criminal penalties. Some fraud and abuse laws apply to conflicts of interest with members of a dentist's family. Many states have also enacted fraud and abuse legislation.

SAMPLE POLICY

Food and Drink Policy

Cleanliness and infection control are necessary for patient safety, as well as for OSHA compliance. Food and drink should never be consumed in or near the operatories. Similarly, food and drink are prohibited in the office area because it could easily come into contact with patient files, business records, computers and other office equipment, etc. Food and drink should never be consumed in front of patients. Please limit your food and beverage consumption to the break area during your break or lunch periods.

A refrigerator is provided for your convenience. We are all responsible for its cleanliness, as well as making sure everyone has enough space. Please monitor your food and take care to dispose of food before it goes bad. Similarly, respect your coworkers and use only enough space for one or two meals.

SAMPLE POLICY

Conflict of Interest

As an employee of this dental practice, you have a duty to do what is best for the practice. Sometimes you may find yourself in a position where your personal or professional activities may conflict with the practice. Examples of potential conflicts of interest include working as a paid consultant for a dental supply company or hiring a family member and serving as his or her supervisor. Conflicts of interest can harm the practice, and some are illegal and can result in fines and even criminal prosecution.

If you have a conflict of interest, please notify the dentist immediately and we can evaluate it. If you ever question whether engaging in a certain activity may be a conflict of interest, please contact the office manager or the dentist before accepting the opportunity.

It is prudent to consult an experienced health lawyer with respect to any relationship or practice that may risk violating fraud and abuse laws.

Here are some examples of conflicts of interest that may risk violating fraud and abuse laws:

- Leasing to (or from) someone who refers patients to your practice (or to whom your practice refers patients)
- Receiving money or gifts from a drug or device company or supplier
- Receiving gifts from a health care provider to whom you refer patients
- Investing in a health service to which your practice refers patients

For general information about federal fraud and abuse laws, visit the website of the U.S. Department of Health and Human Services Office of Inspector General (OIG). OIG has created educational materials to help health care providers learn about federal fraud and abuse laws. These materials are available at www.oig.hhs.gov/fraud/PhysicianEducation.

An employee has a conflict of interest when his or her personal or professional activities may be at odds with the best interest of the dental practice. Employees in your dental practice have an obligation to be impartial in matters concerning the practice, its patients and potential patients, and the individuals and entities with which the practice does business.

Harassment

When many people think of harassment in the workplace, sexual harassment is usually the first thing that comes to mind. However, the term “harassment” has a much broader definition. The U.S. Equal Employment Opportunity Commission defines harassment as “unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.”²⁰ State and local law may also protect these and other classes. People who are members of these groups are in a “protected class.” Members of a protected class have legal recourse if they are targeted for discrimination or harassed based on their membership in the protected class.

Some types of harassment can include, but are not limited to:

- Sexual harassment
- Bullying
- Pranks and jokes
- Psychological intimidation
- Verbal assaults
- Harassment via electronic communications
- Stalking

The best way to prevent harassment and to protect your staff and yourself is to have a comprehensive anti-harassment policy in place, and a well-trained staff. The sample policy on the next page is based on the American Dental Association’s anti-harassment policy. You can customize it as necessary to establish your own anti-harassment policy. As with all policies that appear in your employee handbook, it may be wise to have it reviewed by legal counsel.

SAMPLE POLICY

Harassment Policy

This practice absolutely prohibits sexual harassment and harassment on the basis of race, color, religion, sex (including pregnancy), national origin, age, disability or genetic information. Derogatory racial, ethnic, religious, age, sexual orientation, sexual or other inappropriate remarks, slurs or jokes will not be tolerated. All employees are responsible for assuring that the work place is free from improper harassment.

Sexual harassment includes unwelcome sexual advances and requests for sexual favors, and all other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either implicitly or explicitly a condition of the individual's employment*
- Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment*
- Such conduct is sufficiently severe or pervasive to alter the conditions of employment and to create a hostile or abusive working environment*

Sexual harassment may take many forms, including, but not limited to:

- Verbal harassment or abuse of a sexual nature*
- Subtle pressure or abuse of a sexual nature*
- Unnecessary touching of an individual, for example, patting, pinching, hugging and repeated brushing against another employee's body*
- Offensive sexual flirtation, advances or propositioning*
- Graphic verbal commentaries or jokes*
- Sexually degrading words used to describe an individual*
- The offensive display in the workplace of sexual objects, pictures or writings*

Each employee must exercise his or her own good judgment to avoid engaging in conduct that may be perceived by others as harassment. Forms of harassment include, but are not limited to:

- Verbal: repeated sexual innuendoes, racial or sexual epithets, derogatory slurs, off-color jokes, negative stereotyping, personally abusive remarks, propositions, threats or suggestive or insulting sounds*
- Visual/Non-verbal: derogatory posters, cartoons or drawings; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures*
- Physical: unwanted physical contact including touching, interference with an individual's normal work movement or assault*
- Other: making or threatening reprisals as a result of a negative response to harassment*

If you believe that you have been harassed, or if you become aware of an incident of harassment, whether by an employee or a non-employee, you should report it as soon as possible to your supervisor and/or to the office manager. No employee in this organization is exempt from this policy.

Do not allow an inappropriate situation to continue by not reporting it, regardless of who is creating that situation. This policy applies to the immediate work place as well as to work-related activity outside the ordinary work place, such as travel for business, meetings outside work, and work-sponsored social or recreational events.

In response to every complaint, we will take prompt investigatory actions, and corrective and preventative actions where necessary. An employee who brings forth such a complaint in good faith will not be adversely affected as a result of reporting the harassment or objectionable conduct. All employees should be aware that the privacy of the charging party and the person accused of the harassment will be protected to the extent consistent with effective enforcement of this policy. We will retain confidential documentation of all allegations and investigations. Any employee found to have violated this policy will be subject to disciplinary action up to and including termination.

Workplace Violence

Workplace violence is a serious issue that should be addressed in your employee handbook. According to an estimate, health care workers are sixteen times more likely to experience an incident of workplace violence compared to other employees, including prison guards, police officers, bank staff, retail employees, and transport workers.²¹ A dental practice is at special risk because money and drugs are on the premises.

An incident of workplace violence may expose your practice to liability. According to the Family Violence Prevention Fund, “[j]ury awards for inadequate security suits average \$1.2 million nationwide and settlements average \$600,000.”²² It is important to have a workplace violence policy so you are prepared and your practice is protected in the event of an emergency.

In her course *Violence in the Healthcare Workplace*, Alice Yick Flanagan cites an article by Lipscomb et al²³ which classifies workplace violence perpetrators into four different classes:

- 1) Stranger: The perpetrator is not known to the victim(s) and has no reason to be in

the workplace. An example of this type of workplace violence is robbery.

- 2) Customers: The perpetrator is an individual who has been provided some sort of service; the victim may be the individual or caregiver who has provided the service. A patient who assaults the nurse conducting rounds is an example of this type of violence.
- 3) Colleague or former worker: The perpetrator is a current or former employee. This type of violence is often the result of a perceived injustice, and the violence committed is in retaliation for that injustice. An example of this type of violence might involve a former staff person who was laid off and returns to hurt the employer.
- 4) Personal relationship outside the workplace. The perpetrator is known to the victim outside of a work or professional relationship. The aggressive act is usually motivated by perceived difficulties in the social relationship. An example of this type of workplace violence would be a boyfriend who comes to his girlfriend's workplace to hurt her/others (i.e. domestic violence or intimate violence).²⁴

Workplace violence prevention training and pre-screening job candidates using criminal background checks are some ways you can help prevent workplace violence. Flanagan also recommends ongoing training, starting at new employee orientation and continuing at staff meetings and other employee gatherings. This training can include an environmental assessment, violence de-escalation techniques, and self-awareness. A well-trained staff has a boosted a sense of control and decreased feelings of helplessness in the event that workplace violence does occur.²⁵

You may also consider encouraging workplace violence training as a way for staff to earn continuing education credits.

Workplace violence prevention training and pre-screening job candidates using criminal background checks are some ways you can help prevent workplace violence. Ongoing training, starting at new employee orientation and continuing at staff meetings and other employee gatherings is also recommended.

SAMPLE POLICY

Workplace Violence Policy

Employee and patient safety is one of the most important concerns of this practice. We are committed to working with our employees to maintain an environment free from violence, threats of violence and other types of disruptive behavior, such as intimidation and harassment. Such behavior will not be tolerated from strangers, patients, colleagues or other people with whom employees have personal relationships.

This behavior – violence, threats, intimidation, gestures and written or oral statements or expressions that communicate a direct or indirect threat of physical harm – will not be tolerated. Employees and other individuals who commit such acts may be removed from the premises and may be subject to disciplinary action, up to and including termination, criminal penalties, or both.

If you observe or experience such behavior, report it to the dentist or office manager immediately. If there are threats or assaults that require immediate medical or police attention, CALL 911!

Employee Referral

Employers are becoming more creative with their recruiting efforts and employee referral programs are becoming very commonplace in today's workplace. These programs are an excellent way to recruit new employees, and they reward the dental team members you already have. Individuals referred by current employees must go through the same pre-hiring screening process as all applicants.

Nursing Mothers

In March 2010, the federal Patient Protection and Affordable Care Act (PPACA) was signed into law. Part of PPACA amended section 7 of the Fair Labor Standards Act (FLSA) to require employers to provide "reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time an employee has need to express milk." In addition, employers must provide "a place other than a bathroom that is shielded from view and free from intrusion by coworkers and the public, which may be used by an employee to express milk."

Under the FLSA, employers do not have to pay nursing mothers for breaks taken for the purpose of expressing milk. But an employee who uses her own paid break time to express milk must be paid just like other employees who receive a paid break.

For more information on the PPACA provisions for nursing mothers, visit the US Department of Labor website at www.wagehour.dol.gov.

If you have fewer than 50 employees, you may not be required to comply with this FLSA mandate if it causes undue hardship to the practice. An employer can decide whether compliance would be an undue hardship by determining whether it causes significant difficulty or expense when considering the practice's size, financial resources, nature or structure. It would be prudent to document the decision and the reasons why complying would be an undue hardship.

State laws may provide greater protections to employees who are nursing mothers. Employers must comply with the law that is more favorable to the employee. Therefore, it is important to consult an attorney licensed to practice in your state to make sure your policy addresses state laws appropriately.

SAMPLE POLICY

Employee Referral Policy

Our dental practice offers an Employee Referral Bonus for any employee who refers an individual for an opening, if that individual is hired, completes the probationary period and remains in the position for six (6) months. The referral bonus of \$250 will be added to your regular paycheck on the pay period following the new hire's six-month anniversary. To refer an applicant, ask your referral to give your name as the referring employee when he or she is interviewed.

SAMPLE POLICY

Nursing Mothers Policy

This practice is supportive of nursing mothers, and will provide reasonable accommodations for the purpose of expressing milk. Employees are entitled to reasonable breaks to express milk. Breaks will be unpaid unless an employee uses her allocated paid breaks for the purpose of expressing milk. As a courtesy to patients and coworkers, please make sure another employee covers your duties while you are absent. Please use the designated private space provided for nursing mothers, and ensure that others are aware when the space is being used.

Summary

Consistent employee policies create a fair and equitable workplace, as well as provide guidance and protection to employees if something unexpected should occur. When applied in tandem with sound hiring practices, they are the basis for an informed and productive staff.

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Employee Training

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Chapter 4.

Employee Training

A comprehensive orientation and training program builds employee confidence from the start, and shows employees they have made the right decision in joining your practice team. In addition to employee orientation matters (completing necessary forms, meeting the staff, establishing duties and responsibilities, etc.), it is important to make sure the new hire receives HIPAA and OSHA training. It is also a good idea to be alert for ongoing training opportunities for your staff.

Learning Objectives

- **Describe the features of a successful employee orientation and training program**
- **Complete a new hire checklist**
- **Identify HIPAA privacy and security training topics**
- **Explain some requirements of OSHA health and safety training**
- **Specify possible ongoing training activities**

Employee Orientation and New Hire Checklist

Orientation programs can be effective in many ways, such as:

- Influencing employee attitudes
- Promoting learning
- Reducing anxiety of the new employee
- Defining the philosophy of a business
- Communicating the employee's role in a business
- Motivating employees
- Improving employee morale
- Reducing turnover

Orientation programs are wide and varied, and you should experiment until you find what works best for your dental practice.

Determine the best delivery methods for your orientation program. For example, there are many ways to present an orientation program, including:

- Manager-led discussions
- Mentor/shadowing programs
- Reviewing case studies
- Multi-media training
- Group activities

Then, determine a list of objectives that should be met in a specific time frame.

Figure 4.1 is a new hire checklist which can be reviewed with a new employee during orientation.

FIGURE 4.1 NEW HIRE CHECKLIST

New Hire Checklist

Employee Name

Date of Hire

Home Telephone Number

To Do ☒

- ☐ Complete employee documents such as state and federal forms (i.e., W-4 and I-9).²⁶
Make sure these documents are signed and dated.
- ☐ Make sure social security number is on file.
- ☐ Comply with USCIS (U.S. Citizenship and Immigration Services) regulations.²⁷
- ☐ Obtain copies of and verification of licenses, if applicable.
- ☐ Some states require training in dental radiography procedures for certain staff members.
Contact your state dental society for more information.
- ☐ Make sure employment application (signed and dated) and resumé are on file.
- ☐ Verify immunizations, such as hepatitis vaccine, if applicable.
- ☐ Obtain the name and phone number of an individual to contact in the event of an emergency.
- ☐ Decide whether an office key should be given to the employee.
- ☐ Document all of the items that you give to an employee when you hire him or her. Ask each new employee to review and sign the list, and make sure the employee understands that he/she must return the items and equipment when employment ends.
- ☐ Order name badge, if applicable.
- ☐ Engage in office tour and introduce employee to coworkers. (Review parking area, time cards, storage for personal belongings, employee lounge, etc.)
- ☐ Schedule training (clinical, HIPAA, OSHA, office software systems, etc.).
- ☐ Explain office security policies. Go over alarm system and instructions on opening and closing the office.

- ☐ Determine the appropriate level of access to information for the new employee, such as:
 - Patient information (HIPAA personally identifiable information, if your practice is a covered entity)
 - Personnel files
 - Employee medical files
 - Personally identifiable information (PII) as defined by state law, such as credit and debit card numbers, social security numbers, drivers' license numbers, account numbers, etc.²⁸
- ☐ Arrange access to electronic and hard copy information accordingly and train the employee about appropriate access and to immediately report suspected breaches.
- ☐ Set date for 90-day performance appraisal.

Office Policies and Procedures to Review

- ☐ Go over the philosophy and mission statement of your dental practice. Discuss the standards of performance that are required in your dental practice.
- ☐ Train new employee on patient confidentiality policies, along with HIPAA security, privacy and breach notification policies if your practice is a HIPAA covered entity. Document training in the employee's personnel file.
- ☐ Discuss medical and dental benefits, if applicable.
- ☐ Discuss insurance and pension plans, if applicable.
- ☐ Provide the employee with your employee office manual. Ask employee to read the employee office manual and sign a form indicating that he or she has read and understood the contents of the manual.
- ☐ Review infection control procedures and bloodborne diseases policy, as well as personal protective attire, in accordance with OSHA requirements.
- ☐ Discuss anti-harassment policies and provide your new employee with a copy of the policy if it is not included in the employee office manual.
- ☐ Discuss pay rates, overtime, paydays and incentive plans.
- ☐ Discuss your communications policy, such as personal use of telephone, e-mail, etc.
- ☐ Distribute a copy of your dental office organizational chart and job descriptions of your dental practice, if one exists.
- ☐ Provide your new employee with a copy of the job description and retain a signed copy acknowledging receipt of the job description in the employee's personnel file.

☐ Discuss performance evaluation process and schedule.

☐ Discuss work schedule.

☐ Discuss attendance policy and who to contact in cases of absences and tardiness.

☐ Discuss dress, appearance and uniform policies.

☐ Review patient contact procedures.

Miscellaneous

☐ Offer map of neighborhood showing restaurants, shopping centers and other attractions.

☐ Discuss all other office policies, procedures or patient services you'd like to highlight.

☐ Set aside time to meet with new employee to thoroughly answer questions he or she may have.

In addition to the “nuts and bolts” tasks, a large part of orientation is welcoming the employee to your practice. The following simple suggestions can make a world of difference to make an employee feel included and at ease in his or her new work environment:

- Make introductions with coworkers
- Tour the office and the employee's assigned working area
- Invite your new employee to lunch
- Introduce them to the neighborhood, telling them where to find a great restaurant, affordable parking or a grocery store
- Provide any necessary office supplies, keys and other items they'll need

Training Programs

An effective training program can help employees improve quality, productivity and compliance with dental office policies and procedures. Today's dental team needs clinical, technical, business and people skills, and must learn to work together and communicate effectively. Training can develop and enhance these skills.

The dental team must also be trained to comply with certain legal and regulatory requirements. For example, a number of the standards of the U.S. Department of Labor Occupational Safety and Health Administration (OSHA) include employee training requirements. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires covered entities to implement workforce training programs to cover privacy, security and breach notification policies and procedures. In addition, an effective training program that addresses legal issues such as discrimination, harassment, electronic communications and the use of social media can help a dental practice avoid misunderstandings, manage risk and reduce the possibility of a legal challenge.

Come up with some creative ways to help your employees obtain training, such as:

- Weekly to-do lists
- Lectures and demonstrations
- Role-playing and follow-up analyses
- Group discussions
- Reviewing the employee office manual and other books you've chosen
- Watching educational video/DVD programs
- Completing tests or computer-based training programs
- Job shadowing and cross-training activities
- Attending CE programs
- Lunch outings with coworkers

A practice "resource center" where employees can check out books, manuals, videos, journals and other products is another great way to allow employees access to training materials.

For the new dental team member, a well-organized procedural manual and employee office manual can help the new employee make a smooth transition into the culture of your dental practice. Your staff can use the procedural manual and the employee office manual for continuing training and for reference.

A practice "resource center" where employees can check out books, manuals, videos, journals and other products is another great way to allow employees access to training materials. Many workbooks and DVD presentations can be completed for CE credit at a fraction of the cost of a class or seminar. For information about ADA patient education and practice management products, call 1-800-947-4746 or visit www.adacatalog.org.

Short training sessions—which should be done on company time—may be preferable over intense, daylong programs. Allow "scheduled time" to meet with your new employee and answer questions. Don't forget to tie training to the bottom line. When employees understand that training and skills affect the practice's bottom line, they are likely to set higher standards for themselves.

Your program must cover certain training topics required by federal, state or local laws and regulations, such as applicable OSHA standards, and the HIPAA Privacy, Security and Breach Notification Rules, if your practice is a HIPAA covered entity. In addition, you can train your staff to understand federal, state and local laws and regulations as well as liability issues that may affect dental practice, such as:

- Disabilities accommodations
- Discrimination
- Harassment
- Electronic communications and social media

Your program should also cover topics and procedures that are especially important to you and your unique office culture. Some additional topics could include:

- History of the practice and future plans
- Patient services
- Work rules and regulations
- Employee benefits

The topics, training methods and ideas in this section may enhance your employee training program.

HIPAA Training

The regulations implementing the federal Health Insurance Portability and Accountability Act (HIPAA) protect the privacy of patients' protected health information (PHI) and the security of electronic protected health information. The HIPAA regulations also require appropriate notification in the event of a breach of unsecured protected health information.

A dental practice is a HIPAA Covered Entity if it transmits certain health information (including claims) in electronic form, either directly or indirectly through a vendor or billing service. A covered entity dental practice must appropriately safeguard, use and disclose protected health information in compliance with HIPAA's requirements. Keep in mind that more stringent state laws may also apply.

HIPAA requires a covered entity to train workforce members to safeguard protected health information and to comply with the HIPAA regulations and with the Covered Entity's HIPAA policies and procedures. HIPAA defines "workforce" to include not only employees, but also volunteers, trainees and other persons whose conduct is under the covered entity's direct control, whether or not they are paid by the covered entity. HIPAA training should be required for all members of your practice's workforce, including management, and you should consistently document all training as it occurs.

Document all training sessions, including the date and topic of each training session (including informal and refresher sessions) and the workforce members who received the training. Training for new hires must occur within a reasonable time of their employment, and retraining for employees should occur whenever privacy policies and procedures change, duties change or if it becomes apparent that an employee needs retraining.

Staff should also be re-trained when there are changes in your practice, such as:

- New or upgraded software or hardware with new security features
- New technologies to safeguard electronic protected health information transmitted over an open network
- Increased local, regional or national threats
- Changes in the HIPAA regulations

Dentists must also develop and apply sanctions for employees who violate the office's HIPAA policies and procedures. When drafting your HIPAA sanctions policy, be careful to retain your at-will employment status, if applicable. Adding adherence to privacy policies to the employee code of conduct and to the practice's guidelines can also be useful. Remember to document any sanctions that are applied.

Your HIPAA training program may require your workforce to review your HIPAA policies & procedures. Document that they have done so by having each workforce member sign an acknowledgement form. Place the signed form in the appropriate file.

Each document required by HIPAA, including documentation of workforce training, must be retained for six years from the date of its creation or the date when it was last in effect, whichever is later.

HIPAA Privacy. Some of the HIPAA Privacy requirements include designating a Privacy Official who is responsible for developing and implementing HIPAA Privacy policies and procedures, and training all workforce members on the policies and procedures. Some examples of HIPAA Privacy training topics may include:

- What is protected health information (PHI)
- Restrictions on access, use and disclosure of PHI
- Preventing incidental disclosures of PHI
- Penalties and sanctions for violations
- Business Associates
- The “minimum necessary” rule
- How to handle
 - A patient’s complaint regarding privacy or breach notification
 - A patient’s request for access, amendment, or an accounting of disclosures
 - A patient’s request for confidential communications
- Your practice’s administrative, technical and physical safeguards to protect PHI
- Your practice’s Notice of Privacy Practices (NPP), including providing the NPP and requesting the acknowledgement

HIPAA Security. Some of the HIPAA Security requirements include designating a Security Official who is responsible for:

- Developing and implementing HIPAA Security policies and procedures to protect the confidentiality, integrity and availability of electronic protected health information
- Conducting a risk analysis
- Implementing a security awareness and training program for all workforce members, including management

Some examples of HIPAA Security training topics may include:

- Authorization and supervision to access electronic PHI
- Computer use, such as:
 - Virus and malware protection
 - Password management
 - Data backup
 - Automatic log off
- Restrictions that apply to laptops and other mobile devices
- Encryption and decryption
- Facility security
- Disposal of electronic PHI
- Restrictions on the use of e-usable media (such as CDs and flash drives)

The HITECH Act and Breach Notification. Workforce members at a covered entity dental practice must be trained to comply with the 2009 HITECH Act amendments to HIPAA, including the Breach Notification Rule. Some examples of HITECH and breach notification training topics may include:

- The breach notification rule
 - The definition of a breach of PHI
 - How to report a suspected breach
 - How to “secure” PHI
- Enhanced penalties and enforcement of HIPAA
 - Increased civil monetary penalties
 - Criminal penalties
 - Audits
- New patient rights
 - Restricting disclosure to a health plan when an item or service is paid for out of pocket
 - Electronic access when a practice uses or maintains an electronic health record
 - Enhanced Business Associate compliance requirements

Training the Privacy and Security Officials. HIPAA requires a covered entity to designate a Privacy Official, a Security Official and a contact person who is responsible for receiving complaints and who is able to provide individuals with further information about matters covered by the Notice of Privacy Practices (the same person may handle all three roles). The designated individual(s) should be trained to fully understand the responsibilities of these designations. The workforce member who is responsible for complying with the Breach Notification Rule must also be trained execute his or her responsibilities, such as securing protected health information, assessing suspected breaches and providing appropriate notification as necessary.

The American Dental Association’s publication, The ADA Practical Guide to HIPAA Compliance Privacy and Security Kit, contains sample forms, sample policies and business agreements, employee training suggestions, and detailed information on the HIPAA privacy, security and breach notification regulations. For information, call 1-800-947-4746, or visit www.adacatalog.org. For general guidance regarding compliance, call the ADA toll-free number, ext. 2750. For additional information, contact your local dental society or visit www.ada.org/2693.aspx#HITECH.

OSHA Training

OSHA believes that training is an essential part of an effective safety and health program in order to protect workers from injuries and illnesses, and a number of OSHA standards require employers to train their employees in health and safety aspects of their jobs. Health and safety training may also result in benefits such as fewer injuries and lower insurance premiums.

Some examples of OSHA training topics include:

- Bloodborne pathogens
- Needle safety
- Infection control
- Hazard communication
- Personal protective equipment
- Hazardous waste operations and emergency response
- Portable fire extinguishers
- Radiation
- Fire and emergency exits and procedures
- Reporting injuries and illnesses

Keep a record of all health and safety training. Certain training records are required by OSHA, and training records can help provide evidence of good faith and compliance with OSHA standards. Documentation of training can also be used if an OSHA investigator asks whether an injured employee was trained to do the job.

Dental practices with questions concerning OSHA training may contact their OSHA Regional or Area office. The OSHA Training and Reference Materials Library (www.osha.gov/dte/library/materials_library.html) contains information about training requirements in OSHA Standards and training requirements related to a number of topics, including bloodborne pathogens, needlestick safety, personal protective equipment, recordkeeping and

tuberculosis. The OSHA publication entitled *Training Requirements in OSHA Standards and Training Guidelines* (www.osha.gov/Publications/osh2254.pdf) may also be helpful. OSHA safety and health topics in dentistry are discussed at the website of the U.S. Department of Labor (www.osha.gov/SLTC/dentistry/index.html).

Keep a record of all health and safety training. Certain training records are required by OSHA, and training records can help provide evidence of good faith and compliance with OSHA standards.

The American Dental Association publication *ADA Complete OSHA Compliance Kit* includes the *OSHA Training for Dental Professionals* DVD and the *Regulatory Compliance Manual* and CD-ROM with Update Service through 2013. For information about the Kit and other ADA OSHA training and compliance resources, call 1-800-947-4746, or visit www.adacatalog.org. The ADA website, www.ada.org, offers a variety of resources for dental practice health and safety training and compliance, such as the infection control topics available at www.ada.org/2697.aspx.

Medical and Fire Emergency Training

Employees who are expected to assist in evacuation, fire protection or medical emergencies should be trained in those duties.

The American Dental Association recommends that at least one full-time employee, besides the dentist, be trained in first aid and cardiopulmonary resuscitation (CPR) for medical emergencies.

Employees should know how to use all medical emergency equipment. Employees who are expected to use fire extinguishers should be trained to use them.

Equal Employment Opportunity Law Training

Dental team members who will be assisting with employment issues, including hiring, managing, discipline and terminations, should be trained to comply with federal, state and local equal employment opportunity laws. Under federal law, job applicants may not be discriminated against based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. State and local laws may add additional protected categories.

Equal opportunity laws apply to all aspects of employment, such as:

- Posting job ads
- Recruiting
- Hiring decisions
- Determining pay and benefits
- Assigning jobs and promotions
- Disciplining and discharging employees

For more information on equal employment opportunity, as well as upcoming dates and locations of training and seminars, visit the U.S. Equal Opportunity Employment Commission website at www.eeoc.gov.

Harassment Prevention Training

As discussed in Chapter 3, a well-trained staff is your best defense against workplace harassment. There are a variety of harassment prevention materials available, including online training, DVDs and seminars. While sexual harassment is the most publicized form of harassment, workplace bullying can also be a significant problem. According to a Workplace Bullying Institute/Zogby International survey, 35% of workers have experienced workplace bullying.

Employees should understand that any type of harassment will not be tolerated. A comprehensive training program will teach staff how to spot signs of harassment, as well as how to respond to incidents they believe constitute harassment.²⁹

Clinical Training

Clinical training opportunities are available from a variety of sources, including online. The most obvious choice to brush up on clinical skills is to take classes offered at dental schools or through hygiene programs. Courses are also offered through local dental societies, as well as via professional associations such as the American Dental Hygienists' Association (ADHA) and the American Dental Assistants Association (ADAA).

Larger dental meetings often have clinical demonstrations and classes in live operatory settings or in the round. Sometimes dental equipment companies offer demonstrations for free or at a reduced cost. It is also important to note that the ADHA and the ADAA sometimes hold their annual meetings immediately before or after annual meetings geared to dentists.

For a more local option, there are countless study clubs available not only for dentists, but for members of the dental team, including hygienists and assistants. Study clubs often meet to address a specific topic, such as implant placement or treating periodontal disease, and often have live demonstrations.

Whichever option you choose, the most important thing is to be supportive in your staff's pursuit of clinical training, especially in terms of scheduling and financial reimbursement. A well-trained staff benefits the entire office and improves your bottom line.

For HIPAA, OSHA, infection control and employee training, the ADA offers a wide variety of products, with most including CE credit. Call 1-800-947-4746 or visit www.adacatalog.org for more information.

Ongoing Training Opportunities

In our time-crunched workday, some staff members may appreciate the convenience of training through handbooks, videos, computer-based learning and on-line access. Computer-based, e-learning programs are effective because employees can take courses at their convenience, at their own pace and even at a remote location.

Other ongoing training opportunities include the following suggestions:

- When time permits, employees should shadow and observe coworkers' jobs. This cross-training effort helps to foster teamwork, a new perspective and an appreciation of other positions in the dental office.
- A mentoring program can help cultivate better team building and establish cross-functional capabilities among members of your dental staff.
- You may wish to have your employees attend formal training programs in such topics as computers, new dental techniques, business leadership, personal growth and other subjects. Some dental offices reimburse employees for training.

Summary

A well-trained staff is a confident staff, and this is reflected in every interaction with patients. From new employee orientation to CE classes, training forms the foundation of an efficient, motivated and educated dental team.

There are a variety of training programs for the dental team, some mandatory and some optional. Regardless of the type, training has many positive effects on staff, including skills development, knowledge transfer and team-building, to name a few.

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Chapter 5.

Employee Benefits

A well-rounded benefits package can help attract and retain a team of skilled professionals. According to MetLife's 8th annual *Study of Employee Benefits Trends*, the link between benefits satisfaction and job satisfaction is stronger than ever. According to the study, "[o]f employees very satisfied with their benefits, 81% report being very satisfied with their jobs." Similarly, 61% of employees surveyed cited benefits as a reason for joining their employer.³⁰

In addition, employee benefits packages may lead to greater productivity, and may reduce medical and disability costs and absenteeism.

Learning Objectives

- **Identify various types of leave, and how employees are compensated for each**
- **Discuss comprehensive medical and dental coverage policies**
- **Differentiate between worker's compensation, disability benefits and COBRA**
- **Explain paycheck deductions**
- **Describe policies for the reimbursement of continuing education, tuition and professional dues**

An important resource to keep in mind when planning your employee benefits package is the ADA Business Resources program. This program provides information and discounts to ADA members pertaining to a variety of services, such as payroll, health savings accounts and practice financing. For more information on these products and services, visit www.ada.org/adabusinessresources.aspx.

Employee Compensation and Paycheck Deductions Policies

This section discusses the type and amount of information to give your employees about their financial compensation and includes a Total Compensation Worksheet that you can use to show the total financial worth of employee earnings and benefits. This can be a great supplement to the gross amount shown in your employees' W-2 forms, which is where many employees look for salary information.

Staff compensation varies by geographic region. In general, however, according to the American Dental Association's *2009 Workforce Needs Assessment Survey*,³¹ the average hourly pay for chairside assistants was \$18.10 per hour for an average 32-hour work week. The survey also revealed that dental hygienists make, on average, \$36.50 per hour for an average 24-hour work week.

One way to help employees understand the value of their financial compensation is to explain the deductions from their paychecks. Many workers do not truly understand the nature of these deductions. Simply stated, most people know there is a difference between gross income and take-home pay, but they don't know precisely why. Below are some sample descriptions to use to talk to your employees about deductions from their paychecks.

A sample paystub from your payroll software is useful to show how deductions appear on a paycheck. Additionally, you can use the Total Compensation Worksheet at Figure 5.1 to show the value of certain benefits that an employee receives.

SAMPLE POLICY

Description of Deductions

This practice is required by law to deduct federal and state taxes, as well as Social Security and Medicare taxes, from every employee's earnings. By January 31 of each year, you will be provided a W-2 tax form showing your earnings and withholdings during the previous year. Additional deductions may be found on your paycheck, depending upon your selected benefit package. Here is a description of the deductions:

Federal Income Tax. *The amount withheld for federal income tax is determined by rates established by the U.S. government. The amounts vary according to your salary and number of dependents. The office manager maintains these records and should be contacted for information on the withholding process. At the end of the year, every employee receives a W-2 statement reporting earnings and the amount of taxes withheld during the year. You need this information to complete federal and state income tax returns.*

State Income Tax. *The amount withheld for state income tax is determined by the rates established by our state government. As with federal income tax, the amounts vary according to your salary and number of dependents. Please talk to our office manager if you have questions about the withholding or reporting process.*

Social Security. *For the year 2011, the amount withheld for Old Age Survivors Disability Insurance (OASDI) or Social Security (FICA) is 4.2 percent, based upon the amount of earnings. The amount withheld may change with revisions in the Social Security law.*

Medicare Tax. *Medicare is a federal health insurance program enacted in 1965 as Title XVIII of the Social Security Act. The amounts withheld for Medicare, also known as Medical Health Insurance (MHI), is 1.45 percent as of 2011. Medicare provides certain in-patient hospital services and physician services for persons age 65 and older and eligible disabled individuals. The program is administered by the Centers for Medicare & Medicaid Services, an agency of the U.S. Department of Health and Human Services.*

Medical Benefits. *The medical benefit plan offered by our practice requires the financial participation of employees. [OPTIONAL PROVISION: The practice contributes two-thirds of the premium; the employee's contribution is one-third of the premium.]*

401(k) Plan. *If you have joined our 401(k) plan, you are able to save and invest a portion of your gross annual earnings on a before-tax basis. [OPTIONAL PROVISION: All employees who participate in the plan receive a matching contribution of \$____ on every tax-deferred dollar up to \$____ a year from the dental practice.]*

Dependent Care Assistance Program. *If you participate in this program, you may pay for up to \$5,000 per household per year in eligible dependent care expenses on a pre-tax basis through salary reduction.*

FIGURE 5.1 TOTAL COMPENSATION WORKSHEET

Total Compensation Worksheet

Compensation/Benefits	Dollar Amount
Annual compensation	\$
Paid vacation days	\$
Paid holiday leave	\$
Sick leave	\$
Personal leave	\$
Health plan	\$
Dental plan	\$
Disability insurance	\$
Life insurance	\$
Malpractice insurance	\$
Pension	\$
Production bonus	\$
Continuing education	\$
Uniform allowance	\$
Professional dues	\$
Parking allowance	\$
TOTAL COMPENSATION:	\$

Payday Policy

Your process for payroll distribution, whether you issue traditional paper checks or offer direct deposit, must be clear, consistent and confidential.

Vacation, Holidays and Other Paid Time Off

Vacation

You have flexibility as an employer in setting your policy for vacation times, paid holidays, sick days, personal days and inclement weather days.

Vacation time is one of the most common employee benefits, although employers are not required by

law to offer it with or without pay. Most dental offices do offer paid time off because it contributes to a motivated, healthy and productive dental team.

Religious holidays often fall on workdays. Your vacation and time-off policies should comply with applicable discrimination laws on the federal, state and local level. According to the EEOC, Title VII of the Civil Rights Act of 1964 requires “reasonable accommodation of employees’ sincerely held religious beliefs, observances, and practices when requested, unless accommodation would impose an undue hardship on business operations.”³² Some business owners offer employees personal leave days or designated “floating holidays” where an employee can elect to take off one or two of six possible holidays.

Vacation time is one of the most common employee benefits, although employers are not required by law to offer it with or without pay. Most dental offices do offer paid time off because it contributes to a motivated, healthy and productive dental team.

SAMPLE POLICY

Payday Policy

Paychecks are distributed by the business manager every other Friday. If the office is scheduled to be closed on payday, checks will be distributed the preceding day. If you lose a paycheck, notify the practice immediately. You will be asked to assume the cost of a “stop payment” on the check. We also offer a direct deposit option. Please notify the office manager of your bank name and location and your account number so that your paycheck can be deposited electronically into your checking or savings account.

SAMPLE POLICY

Vacation

Our team enjoys a generous vacation schedule. For the first full or partial calendar year of employment in a full-time position, you can earn up to 10 days of vacation, depending upon the date you are hired. You earn one day of vacation for each month of full-time work. Vacation days in the first calendar year may be taken only as they are earned.

Vacation Schedule for Exempt Full-Time Staff

Years of Service	Vacation Days Earned
Less than 1 year	Up to 10 days depending on date of hire
1 – 4 years	10 days
4 – 10 years	15 days
10+ years	20 days

Part-time employees, after their first calendar year of employment, receive the number of vacation days each year that they work in an average two-week period. For example, if you work an average of two days a week, you would receive four paid vacation days at the beginning of your second year with our practice.

You may schedule your vacation time with the approval of the dentist or office manager. In the case of vacation schedule conflicts, the employee with the longest period of service will be given preference. Please notify the dentist or office manager about your vacation request at least two weeks in advance of the first proposed date.

Vacation time may not be taken in blocks of less than one-half day. Unused vacation days may not be carried over to subsequent years, nor will pay be given in lieu of unused vacation. Employees who leave our practice will be paid for unused vacation time accrued for that calendar year.

Holidays

At the beginning of each calendar year, we provide a list of the dates on which the dental office will be closed for holidays. Full-time employees will be paid for the following holidays after three months of employment:

*New Year's Day
 Dr. Martin Luther King, Jr. Day
 Good Friday
 Memorial Day
 Fourth of July
 Labor Day
 Thanksgiving Day
 Day after Thanksgiving
 Christmas Eve or the day after Christmas
 Christmas Day*

An employee may request time off on a day when the office is open, in accordance with the Personal Time, Vacation, and Leave of Absence Policies.

Bereavement

Bereavement is time off granted to employees in the event of a death of the employee's immediate family. A dental practice should define the term, "immediate family." For example, immediate family may be limited to an employee's spouse, parent, grandparent, sibling and child. Three working days off is a standard policy for bereavement time.

Jury Duty Policy

There is a good chance that a staff member will be selected for jury duty at some point in time. It is a wise idea to have a policy in place before this occurs.

Election Day

Federal law does not require employers to grant time off for election days. However, check to see if it is required by the laws of your state.

Personal Time Policy

Personal days may be given off with pay for employees to conduct personal business and as paid time off for other religious or cultural holidays. The employee is not required to describe or justify the reason for the request of a personal day. However, advance notice of the scheduling of the personal day may be required.

SAMPLE POLICY**Bereavement**

All employees are eligible to take three days off due to a death in the family at a time agreed upon by the dentist or office manager. This policy applies to the following family members: spouse, parent, grandparent, sibling and child. All full-time employees with at least three months of service are eligible to take the three days off with pay at a time agreed upon by the dentist or office manager.

SAMPLE POLICY**Jury Duty Policy**

If you are selected for jury duty, please notify the office manager as soon as possible by submitting a copy of your call to jury duty so the office manager can arrange coverage during your absence.

You will continue to be paid and to accrue vacation and temporary disability while you are on jury duty. Your benefits will remain in effect. Any jury duty pay you receive is yours to keep. After completing jury duty, you should report to work at the beginning of your next scheduled work day. If jury duty does not take the entire day, you are expected to return to work as soon as reasonably possible.

SAMPLE POLICY**Election Day**

Since polling hours in our community have been extended to meet the needs of working voters, employees should make arrangements to vote before or after working hours or during their lunch break.

SAMPLE POLICY**Personal Time Policy**

All full-time employees with at least three months of service are eligible to take two personal days with pay each year at a time agreed upon by the dentist or office manager. Personal days must be approved a week in advance of the day off.

Sick and Emergency Leave Policy

As mentioned previously, employers have great flexibility in setting office policy for such paid days off as sick and emergency leave. However, you cannot discriminate. If you give paid sick days to some employees, you must give them to all employees in that category. For example, if you give paid sick days to one full-time employee, you must extend this benefit to all full-time employees.

Leave of Absence Policy

Your leave of absence policy must comply with applicable federal, state and local law. Leave of absence policies may address extended leaves due to illness or injury, specify how long benefits will continue, and under which circumstances an employee on extended leave will have his or her job held open.

Military Leave of Absence Policy (USERRA)

Employers should understand the Uniformed Services Employment and Reemployment Rights Act (USERRA), which protects the job rights of

employees who leave to undertake military service. USERRA applies to all categories of military training and service, whether voluntary or involuntary, in times of peace or war. USERRA applies to persons serving in the National Guard, reserve military personnel, persons serving in the active components of the Armed Forces, and certain types of service by members of the National Disaster Medical System.

In brief, USERRA gives employees the right to be reemployed in their civilian jobs, at the level they would have attained if they had not been absent for military service.

To be reemployed under USERRA, the employee must have left a civilian job to serve in the uniformed services and:

- Must give his or her employer advance written or oral notice of military service
- Must not have been separated from service with a disqualifying discharge or under other than honorable conditions

SAMPLE POLICY

Sick and Emergency Leave Policy

A full-time employee is eligible for five days of paid sick/emergency leave each year after three months of employment. A part-time employee is eligible for two days of paid sick/emergency leave each year after three months of employment. Unused sick leave may not be carried from one calendar year to another. Emergency leave will be approved for such reasons as a funeral or a critical illness of a family member. Please report your absence to the office manager by phone or e-mail by 10:00 a.m.

SAMPLE POLICY

Leave of Absence Policy

Our dental practice offers an extended leave program for employees who are unable to work due to illness or injury. This extended leave program may extend for up to 90 calendar days for a medically certified absence from work because of illness or injury. During the extended leave, employees will receive 65% of their salary, in addition to health insurance benefits. If the illness or injury extends through the end of 90 calendar days of certified illness or injury, it is considered long-term disability. Long-term disability benefits are underwritten by Company XYZ. Contact the office manager to apply for long-term disability insurance.

- Must have five years or less of cumulative services in the uniformed services while with that employer
- Must seek reemployment with his or her employer in a timely fashion as required by the Act

In terms of insurance coverage, USERRA gives employees the right to elect to continue their existing employer-based health coverage for up to 24 months while in the military, and to be reinstated in the employer's health plan upon reemployment.

Employers are required to notify employees of their rights under USERRA. Employers may meet this requirement by displaying a notice available from the U.S. Department of Labor (www.dol.gov/vets/programs/userra/USERRA_Federal.pdf) where

they customarily place notices for employees.

While employers are not required by federal law to pay an employee who is on a military leave of absence, employers may choose to offer differential pay. Differential pay is when the employer covers the difference between civilian pay and military pay.

USERRA prohibits employers from forcing an employee use vacation or other paid leave in order to complete military service. Some employees prefer to use their paid leave during military service so that they will continue to be compensated at their full rate of pay. Employers can also elect to allow a certain number of paid military days in their office policies.

SAMPLE POLICY

Military Leave of Absence Policy (USERRA)

This practice is supportive of all military personnel.

In order to qualify for coverage under the Uniformed Services Employment and Reemployment Rights Act (USERRA), an employee must meet the following criteria:

- *The employee must have left a civilian job with the employer to perform service in the uniformed service*
- *The employee must give his or her employer advance written or oral notice of military service*
- *The employee must not have been separated from service with a disqualifying discharge or under other than honorable conditions*
- *The employee must have five years or less of cumulative service in the uniformed services while with the employer*
- *The employee must seek reemployment with the employer in a timely manner after conclusion of service as required by the Act*

[OPTIONAL PROVISION: *In addition to our obligations under USERRA, our dental practice grants two weeks of paid military leave to full-time employees in the uniformed services (Air Force, Army, Coast Guard, Marine Corps, Navy, Public Health Commission Corps, as well as the reserve components of these services) who are called to active or inactive service, including training periods. For duty periods longer than two weeks, our dental practice will pay the employee the difference between his or her average office wages and military pay, if the latter is less, for up to 90 days. For duty periods longer than two weeks, the employee may use, but is not required to use, vacation time for his or her military service.]*

Family and Medical Leave Act (FMLA)

The federal Family and Medical Leave Act requires employers of 50 or more workers to provide eligible employees with up to 12 weeks of unpaid leave a year for specified family and medical reasons such as the birth, adoption or foster placement of a child, or the serious illness of the employee or a member of his or her immediate family. Although the federal Family and Medical Leave Act applies to those with 50 or more

employees, some states have enacted family and medical leave laws applicable to smaller employers. For more information on the FMLA, visit the U.S. Department of Labor's FMLA website at www.dol.gov/whd/fmla. Consult an employment attorney for information about your obligations under the laws of your state and the FMLA if applicable.

SAMPLE POLICY**Family and Medical Leave Act (FMLA)**

Full-time employees of this practice with at least 12 months of service and who have worked at least 1,250 hours in the last 12 months are entitled to a total of 12 unpaid workweeks of leave during any 12-month period for one of the following reasons:

- *The birth of a child of the employee and to care for the newborn within one year of the birth*
- *The placement of a child with the employee for adoption or foster care within one year of the placement*
- *The care of a spouse, child or parent of the employee with a serious health condition (wellness care, such as routine check-ups or immunizations, is not included)*
- *The employee's own serious health condition that makes the employee unable to perform the essential functions of his or her job*
- *Any qualifying situation arising out of the fact that the employee's spouse, son, daughter or parent is a covered military member on "covered active duty"*

Full-time employees of this practice with at least 12 months of service are also entitled to a total of 26 unpaid workweeks of leave during any 12-month period for military caregiver leave. "Military caregiver leave" is defined as leave to care for a covered service member with a serious injury or illness. The covered service member must be a spouse, son, daughter, parent or next of kin to the employee.

You are required to take any accrued paid time off (except sick days) before you take unpaid family and medical leave. Your accrued paid time off will be deducted from the total of 12 or 26 weeks leave. You may take the leave of absence on nonconsecutive days or weeks, or on a reduced schedule, if medically necessary. You must give notice of your intention to take leave at least one month in advance whenever possible. In addition, the leave request must be supported by a physician's statement for the ill individual. When you return from your leave of absence, you will be reinstated in the same or a similar position. Your benefits will be reinstated as well. If you receive medical benefits under our practice policies, your health insurance benefits will continue during your leave.

Maternity Leave Policy

Under the federal Pregnancy Discrimination Act (PDA), an employer with 15 or more employees must treat women affected by pregnancy, childbirth, or a related medical conditions the same as other employees and job applicants on the basis of their ability or inability to work. An employer covered by the PDA may not terminate an employee or deny her a promotion because she is pregnant, and an employer may not refuse to hire a job applicant due to pregnancy. Under the PDA, pregnancy leave is medical leave provided for a pregnancy-related disability. An employer may not force a pregnant woman to go on leave while she is able to work. For purposes of leave, benefit plan participation, and reinstatement after leave, pregnant women must be treated the same as others with temporary disabilities. Similar state and local laws may apply to employers with fewer employees, and may also extend protection to an employee who adopts a child.

Employers should not require employees to take maternity leave. In general, medical leaves of absence for pregnancy or childbirth should be treated the same as other medical leaves of absence in accordance with your office policy. Under certain circumstances an employee who is

pregnant or who has an impairment resulting from pregnancy (such as gestational diabetes) may have rights under applicable federal, state, or local disabilities laws. The Family and Medical Leave Act requires employers of 50 or more workers to provide eligible employees with up to 12 weeks of unpaid leave a year for specified family and medical reasons, including the birth, adoption or foster placement of a child; similar state and local laws may apply to employers with fewer employees.

The Family and Medical Leave Act requires employers of 50 or more workers to provide eligible employees with up to 12 weeks of unpaid leave a year for specified family and medical reasons, including the birth, adoption or foster placement of a child.

If your practice offers employees leave to care for a newborn or newly adopted child and your leave policy is more generous than applicable law requires, your policy should treat new mothers and new fathers equally in order to avoid causing resentment and potential liability for discrimination.

SAMPLE POLICY

Maternity Leave Policy

Per the Family and Medical Leave Act (FMLA), this practice offers up to 12 weeks of unpaid leave for birth of a child of the employee and to care for the newborn within one year of the birth or for the placement of a child with the employee for adoption or foster care within one year of the placement.

The section on the FMLA in this employee handbook provides a more detailed explanation of this type of leave.

Please notify the dentist or office manager as soon as possible to arrange your leave. This ensures that we may provide adequate coverage of your job functions during your absence.

Overtime Policy (FLSA)

The Fair Labor Standards Act (FLSA) requires employers to pay non-exempt employees one and a half times their regular rate of pay for every hour they work over 40 in a week. Vacation days, sick days and holidays are not included when calculating work hours for overtime pay. In addition, your state department of labor has specific wage and hour rules that may provide employees greater benefit or more generous rights. Consult an attorney familiar with federal and state laws to ensure you are compliant.

Flex-Time Policy

Today, many dental offices are recognizing the personal needs of employees—from arranging for childcare to coordinating schedules with spouses—and are more open to accommodate flexible and various employee work schedules. Flexible employee schedules can work in favor of the dental office, especially if the office has extended business hours.

A flex-time policy should be drafted and administered in a fair and objective manner to help avoid claims of discrimination. Your policy must also comply with the Fair Labor Standards Act and similar state laws. If an employee with a disability requests flex time, your

dental practice should consider its obligations under the Americans with Disabilities Act and similar state and local laws (for example, a flex-time schedule may be a reasonable accommodation). An employee requesting flex time should also consider whether the requested schedule would inadvertently cause the employee to be ineligible for certain benefits.

Medical Coverage Policy

A group health plan is an employee benefit plan that an employer establishes or maintains in order to provide medical care for participating eligible employees or their eligible dependents. Group health plans provide care either directly or through insurance, reimbursement or otherwise. The Employee Retirement Income Security Act, a federal law known as ERISA, applies to most group health plans. Among other things, ERISA requires individuals who manage plans and other fiduciaries to meet certain standards of conduct, provides protection to group health plan participants and beneficiaries, and provides access to plan information. Dental practices that wish to offer medical or dental coverage to employees should work with a qualified professional such as an attorney employee benefits consultant to ensure that the benefits comply with applicable laws.

SAMPLE POLICY

Overtime Policy (FLSA)

Nonexempt employees are paid time and a half for every hour worked over 40 in a week. Vacation days, sick days and holidays are not included when calculating work hours for overtime pay.

SAMPLE POLICY

Flex-Time Policy

All employees have the opportunity to request flexible working hours. Under flexible working hours, daily hours totaling 7.5 per day, 5 days a week, may be selected during the time of 8:30 a.m. and 7:00 p.m. The dentist or office manager must approve all flexible work schedules to ensure adequate coverage in the office. It should be recognized that management may not be able to approve all requested flexible/alternative working schedules.

Congress passed the federal health reform act known as the Patient Protection and Affordable Care Act in March 2010. This legislation may affect the way you offer health coverage to your employees. For example, the Act provides tax credits to small businesses that provide qualified healthcare to their employees and meet certain criteria, creates the ability to purchase insurance on “Exchanges,” and expands coverage for young adults. For more information on the Affordable Healthcare Act, please visit www.healthcare.gov.

You are strongly encouraged to consult an attorney or professional employee benefits consultant about how this law may affect your practice.

Dental Coverage Policy

Of all the benefits offered by a dental office, dental coverage is one of the most valuable to your practice. Offering a generous dental care

plan to your employees and your employee’s family members presents you as a role model to your employees and patients regarding the value of dental benefits. Keep in mind that providing dental treatment to employees raises a number of ethical³³ and legal concerns. For example, providing free or reduced care to an individual who may refer patients to the practice can trigger federal and state fraud and abuse laws.³⁴ Consult a qualified attorney to determine whether a particular situation raises fraud and abuse concerns. A qualified professional such as an experienced attorney or a professional employee benefits consultant should review any dental or medical benefit arrangement or plan for compliance with applicable laws.

Various dental benefits programs are available. Three examples are listed below:

Personal Dental Benefit Account. After completing a certain number of months of employment, regular staff members receive

SAMPLE POLICY

Medical Coverage Policy

This dental practice offers all full-time employees medical insurance. [OPTIONAL PROVISION: If the employee elects medical coverage, the practice contributes ____% of the premium; the employee’s contribution of ____% the premium is deducted before taxes from pay.] Medical coverage becomes effective upon employee election on the first of the month following the three-month probationary period.

You may choose from two types of coverage, a Health Maintenance Organization (HMO) or a Preferred Provider Organization (PPO). Please review the information packet from our health insurance company for specific information on your medical care coverage.

This practice reserves the right to change employee benefits, including medical insurance, with or without notice.

SAMPLE POLICY

Dental Coverage Policy

After three months of employment, full-time and part-time employees will receive dental examinations and preventive dental care in this office at no cost. After one year of full-time employment, any necessary operative dentistry is provided with the employee only paying laboratory fees. A __ percent discount is available for members of all employees’ immediate family for necessary dental care. In this case, immediate family is defined as spouse or children up to age __.

a monthly credit that is applied to their personal dental benefit account. This credit accumulates and is used specifically for the staff member's dental treatment within the practice during the time of employment. Staff members may be charged the cost of any lab fees and special materials. Eligible dependents and other family members may receive a courtesy discount at the dentist's discretion.

Full Dental Benefits. After completing a certain number of months of employment, regular staff members may receive dental examinations and preventive dental care in the office at no cost. Eligible dependents receive specified dental care services at a discounted rate.

Direct Reimbursement (DR). DR offers many advantages to employers and employees, including potential cost savings and flexibility. Because benefits are determined by the dollars spent, rather than on type of treatment received, the administrative process is simplified. The plan can be administered in-house, or through a third-party administrator. Further, you can design a plan based on your budget, so costs are completely within your control. Finally, employees like DR because it allows them the freedom to visit the dentist of their choice, including specialists.

If you'd like to investigate setting up a DR plan for your employees, you can contact your constituent dental society or the ADA Council on Dental Benefit Programs for more information at 800-232-1890 or www.ada.org/1611.aspx.

Your dental plan arrangements should be reviewed by a professional such as a qualified attorney or benefits plan consultant for compliance with applicable state and federal laws.

Of all the benefits offered by a dental office, dental coverage is one of the most valuable to your practice. Offering a generous dental care plan to your employees and your employee's family members presents you as a role model to your employees and patients regarding the value of dental benefits.

COBRA Policy

The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) extends health insurance for employees and their families if the employee is terminated for any reason except gross misconduct. In general, when an employee leaves your practice, he or she may continue medical insurance coverage for 18 months by paying 102 percent of the monthly premium. COBRA applies to employers of 20 or more employees. Many states also have COBRA-like laws covering employers of fewer workers. Consult an attorney familiar with the employment laws of your state for more detailed information.

SAMPLE POLICY

COBRA Policy

Full-time employees who leave the practice for any reason other than gross misconduct may extend their medical coverage for themselves and their immediate families for up to 18 months. If you choose this benefit, you must notify our practice within 60 days. You must pay 102 percent of the premium, paying the first premium within 45 days of electing to extend your coverage. Continuation of your medical coverage will terminate if you don't pay the premiums or if the practice ends the insurance coverage for employees. It may also terminate if you become eligible for coverage under another group medical insurance plan. You may have the option to convert the medical coverage to an individual policy at the end of 18 months.

Workers' Compensation Policy

Providing workers' compensation for all paid workers, both full-time and part-time, is required by law in almost every state for all employers. Most practices purchase insurance to cover workers' compensation including payment of medical bills, lost wages, permanent disability and death benefits.

such as periods of disability lasting up to 90 days or up to two years. Long-term disability provides benefits for longer time periods, such as up to five years or to age 65. Payments can be a specified amount each month or a percentage of the employee's income. Disability benefits are usually integrated with Social Security and other benefit programs. Total benefits seldom exceed 60 percent of the insured person's total earnings. Although you should check with your attorney, you probably are not required by law to provide disability insurance to your employees. Please note that if you do provide disability coverage, employees affected by pregnancy, childbirth or related medical conditions must be offered the same coverage on the same terms as employees affected by other medical conditions.

Disability Coverage Policy

Disability coverage helps replace income lost by you or one of your employees when injury or sickness prevents work performance. Short-term disability typically covers shorter time periods,

SAMPLE POLICY

Workers' Compensation Policy

All employees are covered by worker's compensation insurance. It provides payment for medical care and income replacement if an employee is disabled due to on-the-job injury.

SAMPLE POLICY

Sample Policy for Short-Term Disability

Full-time employees are eligible for short-term disability benefits as of the date they complete one full year of employment. Short-term disability is absence from work for a period of five or more consecutive workdays due to illness or injury. The condition must be substantiated by a physician's statement. The number of days paid is equal to the 90-day waiting period for long-term disability benefits. Full-time employees with one to five years of employment are paid __ percent of their salary. Full-time employees with more than five years of employment are paid __ percent of their salary.

Sample Policy for Long-Term Disability

To protect full-time employees unable to work due to illness or injury, this practice provides long-term disability insurance at no cost to employees. Employees are covered under the plan at the successful completion of three months of employment. In the event of total disability, the plan provides monthly benefits equal to __ percent of the employee's base monthly wages, beginning 90 days after the occurrence of the disability. These benefits are integrated with Social Security and/or Workers' Compensation disability benefits. (The benefit amount for which you are eligible is reduced by the disability benefit amount received from Social Security or Workers' Compensation.) Benefits can continue if the disability is due to an accident, or until age 65 if the disability is due to illness.

Unemployment Compensation

Unemployment compensation is designed to give workers some income during short periods of unemployment. It is administered by the Unemployment Compensation Division or Employment Security Division of the State Department of Labor. Almost all dental practices are liable for state and federal unemployment taxes for all full-time and part-time employees. Your state unemployment tax is calculated by multiplying a base amount of each employee's pay by a percentage rate based on employee turnover. Thus, every claim for unemployment compensation by previous employees of your practice can affect your rates. (Basically, the higher the number of claims, the higher your rates.)

Thus, every claim for unemployment compensation by previous employees of your practice can affect your rates. (Basically, the higher the number of claims, the higher your rates.)

Do you wish to contest the unemployment claims of a discharged employee? Contact the Department of Labor in your state. Here's a quick look at your chances of winning: if the employee was laid off, even due to a serious economic downturn in your community, you probably won't win. If the employee quit voluntarily, you may win. If the employee was discharged due to incompetence, you may win. If the employee was discharged for gross misconduct, you probably

will win if you have documented the occurrence. To prepare yourself, have clear and written work rules for the practice, apply employee policies consistently, and carefully document every step of your disciplinary process.

Life Insurance

Life insurance can help compensate an employee's family for lost income in the event of the employee's death. You are not required by law to provide life insurance to your employees, either full-time or part-time. If you choose, you may make it a benefit for full-time employees only. Please note that policies of \$50,000 and over require a tax deduction on employee paychecks.

Employee Retirement Income Security Act (ERISA)

The Employee Retirement Income Security Act (ERISA) is a federal law regulating retirement, health and other employee benefit plans. ERISA places limits and standards on yearly contributions to pension and profit-sharing plans, including 401(k) plans, governs the permissible terms of such plans, and requires the filing of disclosure forms and tax reports. So, although you as an employer are not required to provide a retirement plan, if you do provide one, your employees are protected by law regarding their rights to participate and to receive their retirement funds should they leave the practice for any reason after they have become vested.

SAMPLE POLICY

Life Insurance

Full-time employees of this practice are automatically enrolled in a life insurance policy provided by XYZ Insurance Company. This policy is funded by the dental practice. Should the employee die, a lump sum of money would be provided to a designated beneficiary. Information on the terms of the life insurance policy is provided during employee orientation.

Check with a qualified attorney regarding the requirements of ERISA. Generally speaking, all employees aged 21 and over should be allowed to participate in the retirement plan after one year of service. Part-time and temporary employees should also be included if they work at least 1,000 hours per year, and even employees “leased” from an agency may need to be included under some circumstances. Eligibility can be extended to two years (except for the right to participate in a 401(k) plan) if employees are then 100 percent invested in the plan.

Generally speaking, all employees aged 21 and over should be allowed to participate in the retirement plan after one year of service.

When an employee leaves your practice, they have a right to 100 percent of any money they have contributed to the plan. Your contributions to the pension plan should be 100 percent vested after five years (three years in the case of contributions to a profit-sharing or 401(k) plan and certain types of “cash balance” pension plans), or 20 percent after three years (two years for profit-sharing, 401(k) or cash balance contributions) and 20 percent more after each additional year. If your plan is “top heavy,” which generally means that the owners of the practice own at least 60% of the benefits in the plan, faster vesting and mandatory minimum contributions may be required. Pension plan benefits can be paid either when the employee leaves the practice or when he

or she retires, although employees whose balance exceeds \$5000 when they leave the practice have the right to leave their money in the plan until they reach retirement age.

In a 401(k) plan, the employees are typically given the right to choose among different investment funds in which their account will be invested, although this is not a legal requirement. The practice is generally responsible for providing a prudent selection of investment funds, and for satisfying various notice and disclosure requirements. A smaller practice may wish to consider an alternative such as a SIMPLE-IRA plan, in which the practice makes contributions directly to IRAs owned by the employees, and has no further responsibility for the investment of the contributions. You should consult with a professional benefits consultant or qualified attorney to determine what type of retirement program is right for your practice.

ERISA also applies to other types of benefit plans, such as medical, dental, life insurance, flex accounts, disability and severance pay. Although there are fewer restrictions on these types of plans, there may be disclosure and tax filing obligations. Check with the health insurance company, a professional benefits consultant or a qualified attorney to make sure.

Retirement Plan Policy

Your primary goal with retirement plans is to provide financial security and income for your employees during their retirement years. There are many possibilities for such plans. Just one possibility is described below.

SAMPLE POLICY

Retirement Plan Policy

Our practice is committed to helping team members prepare for their retirement. All full-time employees are eligible to participate in the practice retirement plan after one full year of service. Retirement benefits begin at age 65. You are fully vested in the plan after five years of employment in the practice. The retirement benefit formula is based upon your final average monthly earnings and on your years of service with the practice. Please review the retirement plan documents for more detailed information.

401(k) Plan Policy

A 401(k) plan is another type of retirement savings plan for you and your employees. It allows participants to save and invest a portion of their gross annual earnings on a before-tax basis. Although one can borrow against savings in a 401(k) Plan, a significant tax penalty is incurred if savings are removed before retirement and not “rolled over” to another plan or IRA.

full-time employees. You can receive full value for your investment in this benefit by encouraging team members to share what they learned from their professional meetings with other staff members.

Continuing Education Policy

Dental practice team members greatly appreciate continuing education opportunities. The chance to learn and to grow is an essential part of employee motivation. Since continuing education for your employees can improve the proficiency of your practice, this benefit is one of your wisest investments.

Professional Dues Policy

If you believe that your team members would benefit from participation in a professional organization, consider providing 50 or 100 percent of dues for one dental association each year for

SAMPLE POLICY

401(k) Plan Policy

This practice offers a 401(k) savings plan to full-time and part-time employees after six months of employment. (You must be aged 21 or over and work at least 1,000 hours during the year to be eligible.) [OPTIONAL PROVISION: All employees who participate in the plan receive a matching contribution of \$___ on every tax-deferred dollar up to \$___ a year from the dental practice.] Please review the 401(k) information packet for more details on this employee benefit.

SAMPLE POLICY

Professional Dues Policy

Because we recognize the value of professional dental associations to your expertise, this practice will pay 100 percent of dues for one dental-related professional association each year for full-time employees. Please submit your request in writing to the office manager or dentist. You will be encouraged to provide an update of your association’s activities at our team meetings.

SAMPLE POLICY

Continuing Education Policy

This practice holds a strong interest in your professional advancement. Therefore, we attend continuing education programs as a team. Full-time employees are expected to attend the educational programs selected by the dentist. They will receive their average daily wage on these education days. Tuition will be paid by the practice. Part-time employees will have their tuition paid for the selected educational programs. Their attendance is not required nor will they be paid for the time. Other expense reimbursements, such as mileage, lodging and meals, will be determined on a case by case basis.

Tuition Assistance Policy

Although a wide variety of continuing education opportunities lead to professional advancement for employees and to improved proficiency for the practice, part of the value of continuing education is attending as a team. Only then can you discuss and customize the information provided by continuing education to your specific practice. Therefore, consider dedicating most of your continuing education dollars to opportunities that the team can share. However, a portion of your continuing education dollars can be set aside for specialized training needed by individual team members. You should also advise that tuition reimbursement will be taxed in accordance with federal government regulations as appropriate.

Uniform Reimbursement Policy

The image of a dental practice is enhanced when employees wear uniforms. When you and your employees “look like a team,” you communicate the message of a team approach to quality dental treatment. In addition, personal protective equipment such as gowns, masks, eyewear and gloves are required by law and the practice must provide them.

SAMPLE POLICY

Tuition Assistance Policy

This practice allows up to \$_____ each year for tuition reimbursement or continuing education programs for each full-time employee. If you are interested in furthering your professional education in addition to attending the continuing education programs for the entire team, submit your request in writing to the dentist or office manager at least one month in advance. These additional educational opportunities are subject to the approval of the owner dentist, based upon their relevance to your job responsibilities. You will not be paid for time spent in programs. Tuition reimbursement will be taxed in accordance with federal and state government regulations as appropriate. You will be advised of the tax status of the course at the time it is approved for tuition assistance.

SAMPLE POLICY

Uniform Reimbursement Policy

This dental practice requires all employees to wear uniforms to enhance the image of the practice and to communicate the message of a team approach to quality dental treatment. After the completion of three months of employment, full-time and part-time employees will be reimbursed up to \$_____ each year for the purchase of uniforms. The uniform includes scrub tops and bottoms. You will be reimbursed for the approved purchase when you submit the receipt.

Employee Assistance Program (EAP)

An employee assistance program (EAP) is a service provided by some employers to help employees deal with personal or work-related problems which may affect their work. Some examples of services provided by EAPs may include counseling and referral services for issues such as depression, alcohol and substance abuse, stress management, grief management and psychological disorders. Many times, EAPs are offered with health insurance plans. Check with your insurance administrator to see if this service is available.

Some examples of services provided by EAPs may include counseling and referral services for issues such as depression, alcohol and substance abuse, stress management, grief management and psychological disorders. Many times, EAPs are offered with health insurance plans.

Dependent Care Assistance Program (DCAP)

Many dental care professionals have child care responsibilities. Thus, a dependent care assistance program is a viable tool to recruit and retain employees. Under Internal Revenue Code Section 125, an employee can exclude from his or her taxable income up to \$5,000 each year for a qualifying person's care if the care is provided to allow the employee to work. Or, an employer can pay up to \$5,000 a year of eligible dependent care expenses for an employee. An employer can also offer a flexible spending arrangement (FSA) for dependent care assistance, under which the employee's salary is reduced on a pre-tax basis, thus lowering taxes for both the practice and the employee. The FSA benefits are subject to an annual maximum and to an annual "use-or-lose" rule. (Dependent care expenses are judged eligible under the same rules as child care tax credits. Basically, day care and after-school care is included; private school tuition is not. Participants can use DCAP instead of taking the Child and Dependent Care credit on their tax returns.)

An attorney experienced in employee benefits can help you establish a dependent care assistance plan if it is deemed viable for your practice, guide you through such requirements as putting the plan in writing, noting the amount of excluded income on W-2 forms, and providing certain information that employees may require on their income tax returns.

SAMPLE POLICY

Employee Assistance Program (EAP)

This practice offers an employee assistance program (EAP) for use by all its employees. An EAP is a service that provides counseling and referral services to help employees deal with personal or work-related problems. Examples include depression, alcohol and substance abuse, stress management, grief management and psychological disorders, among other issues. Use of the EAP is completely confidential. You are encouraged to take advantage of this valuable benefit if you find yourself feeling overwhelmed by work or life issues.

Summary

A diverse and generous benefits package can attract talented employees, inspire loyalty and increase productivity. Additionally, benefits are an essential part of any job since they not only affect an employee's life on the job, but also off the clock.

Equally important to providing an attractive benefits package is surrounding yourself with a trusted network of legal and financial advisors. Since laws vary from state to state, it is crucial that you consult an attorney in your jurisdiction to review your benefits package. A financial advisor and accountant can explain your options concerning financial and tax benefits.

Chapter 6

Employee Management

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Chapter 6.

Employee Management

There are many different factors that influence staff management – number of employees, practice location, and federal and state laws. However, there is also a more personal side to managing your staff that involves building relationships to motivate, evaluate and manage a diverse group of individuals while increasing production and profitability. This chapter outlines some basic management issues to assist you in addressing the needs of your staff while bringing out the best in them.

Learning Objectives

- **Describe ways to motivate staff and show appreciation**
- **Compare and contrast various employee incentive programs**
- **Explain and develop an effective staff evaluation program**
- **Discuss the challenges of managing a multicultural and multigenerational staff**
- **Create a comprehensive drug-free workplace policy and respond to suspicions of staff drug abuse and diversion**
- **Recognize the signs of possible fraud and embezzlement**

In addition to information presented in practice management publications, a dentist and/or his or her staff should consider participating in practice management or team building seminars offered through constituent societies, the ADA Seminar Series or at dental meetings.

Employee Motivation

Practice management consultant Linda Drevenstedt reminds us that “what motivates you, most often, will not motivate your team.”³⁵ By this statement, Drevenstedt means that while you are focusing on the overall goal of running a successful practice, your staff may be focusing on meeting the fundamental needs of their own lives, of which their jobs are only a small part.

According to Maslow’s Hierarchy of Needs, human needs can be placed in the following categories, in order of importance:

- **Basic Needs.** Breathing, food and water. Most employees can be counted on to fulfill these basic human needs themselves.
- **Safety Needs.** Security of body, employment and resources. You can help meet this need by creating a safe workplace in both the physical and psychological sense.
- **Social Needs.** Belonging, love and affection. Creating a positive workplace with a spirit of teamwork can help satisfy this need. Camaraderie and a sense of trust between

colleagues can go a long way in motivating staff to do their best.

- **Esteem Needs.** Recognition, reputation and respect. Positive public acknowledgement and displays of respect create a staff that feels valued, further fostering a sense of motivation.
- **Self-Actualization.** Self-actualization is when a person realizes and reaches his or her full potential. It occurs when all the needs described above are satisfactorily fulfilled and mastered.

You need to give employees clear expectations and training, and the freedom to do their best. Pay good employees what it takes and base pay on performance. Create a benefits package that is designed to keep talented people in your practice. And make sure you have good management systems and office protocols in place.

How can you as a boss help fulfill these human needs to motivate staff and give them a sense of purpose? According to Drevenstedt, prime staff motivators include:

- Respect
- Meaningful work
- A positive work environment
- Clear communication
- Trust
- Good pay

Employee Appreciation

If praise is as important as a raise, how can you let your employees know you truly appreciate their efforts? Here are nine tips for expressing employee appreciation:

1. **Be a good role model.** If you expect your team members to arrive at work on time with a smile, don't arrive 15 minutes late complaining about the traffic. If you meet your own standards for work behavior, employees will feel better about meeting them as well.

Another example of being a good role model is being active in your community. When you donate your time and talent to programs and events in your community, such as Give Kids a Smile, local health fairs or visits to local schools, your staff sees a different side of you and may be encouraged to volunteer as well. It shows you are not only their boss, but someone who cares about others.

2. **Listen well.** If you truly know your people—their habits, anxieties, goals and strengths—you will be better able to appreciate them. You will also know what type of appreciation they value most.

Mark Craemer of Craemer Consulting offers six tips for being a better listener:

- Don't interrupt the speaker until he or she is finished
- Focus on what the speaker is saying both verbally and nonverbally
- Use active listening skills to demonstrate your attentiveness
- Be curious and not defensive
- Put aside your judgment in order to fully understand
- Use paraphrase to aid understanding and show you care³⁶

- 3. Compliment.** Tell your employees what they do right. Praise their skill in front of a patient. Mention instances of outstanding performance at each staff meeting. Set a goal to compliment in public, but to criticize in private.

Ritz-Carlton employees gather for 15 minutes each day to share “Wow” stories, true accounts of staff members going above and beyond the standard level of customer service. Not only does this recognize employees publicly, but it also reinforces superior customer service skills.³⁷

- 4. Share your vision.** Let employees know how their day-to-day responsibilities contribute to the success of the entire practice. Involve them in the long-range goals for practice growth.

Keeping a copy of your mission statement in a prominent place may help to keep your philosophy and goals top of mind. Speaker and author Dr. Jonathon Bergman advises “Post it in the team lounge/ meeting room/lunchroom and in the sterilization area. Hang framed versions in the reception and treatment rooms for patients to see. Have your team read it aloud once a day on their own and together at team meetings. Proudly talk to patients about it. See it, say it, and make it happen each day.”³⁸

- 5. Keep employees informed.** As valued members of your team, employees are entitled to know what’s going on. Keep them up-to-date both on changes in the field of dentistry and developments within your practice. Take the entire staff to continuing education seminars.

On a personal level, keeping employees informed of happenings within the practice can eliminate the dreaded rumor mill before it starts. It is also important to remember that employee communication works both ways, and your staff can be an excellent source of ideas, improvements and innovations for your practice.

- 6. Encourage participation in management.** When people have a say in a decision, they are much more likely to work for its success. Involve your staff in as many practice decisions as is feasible. Also, a sense of appreciation goes hand-in-hand with a sense of ownership.

Delegate responsibility and decision-making power to the person who performs the function whenever appropriate. Keep in mind that delegation is “neither abdication nor micromanagement. Effective delegation requires striking a balance between these two extremes.”³⁹

- 7. Remember special occasions.** A birthday cake at lunch break, flowers in the hospital after an illness, or a practice-sponsored baby shower are excellent ways to express appreciation.

A good way to remember significant life events is to record them on an office calendar. Appoint a member of your staff to maintain the calendar and be in charge of organizing events. Since this is a departure from normal, day-to-day duties, you may even find the appointed staff person approaches the task with enthusiasm.

- 8. Reward creativity.** When an employee tries the “new and different” rather than the “tried and true,” don’t react with “but we’ve never done it that way.” Judge the worth of employee effort by the results.

For example, if your dental assistant is unorthodox in the way she relates to children, but kids and parents love her, compliment her success. Invite the rest of the staff to learn from her approach.

- 9. Say thank you.** A genuine expression of thanks is one way to prevent taking an employee for granted and goes a long way.

Incentive Programs

Dental practices increasingly turn to incentive programs as a way to motivate employees. According to Ajilon, an international professional staffing firm, an effective rewards program offers employees three things:

- A fair return for their efforts
- Motivation to maintain and improve their performance
- A clarification of what behaviors and outcomes the organization values⁴⁰

Incentives can range from bonuses and monetary rewards to employers sending employees on lavish vacations. The advantages for using incentives? If properly implemented, incentives can increase productivity and reward employees in a tangible manner for effective work performance. The disadvantages? They can be hard to administer and may lose their effectiveness after an initial burst of productivity. Most important, incentives never replace an equitable salary and benefits package. Let's briefly review some of the more common incentive plans.

Bonuses

Simply put, the bonus says to your staff, "We're holding you accountable for your work and we think you're doing a great job and we're going to reward you." Generally, performance pay attempts to motivate future behavior.

Examples of bonuses include monetary "on-the-spot" awards for instantly rewarding desired behavior or attendance bonuses to employees who go a year without using a sick day. Many businesses also offer referral bonuses, which are awarded to employees who refer job applicants who are hired. In most cases, the bonus is awarded after 90 days of the new hire's starting date.

Collections Incentives. The staff is given a percentage of collections, or a percentage of the increase in collections, typically calculated every three months. Employees receive a share based upon number of hours or days worked during the

period. (The percentage given as an incentive is in addition to a base salary or hourly wage, not a replacement of it.)

Production Incentives. The staff receives a percentage of the production or the increase in production. The incentive is divided equally between employees based on number of hours or days worked. Production can be figured every month or every three months. Or, staff can be given a daily production goal, and receive a bonus for each day the goal is met.

Fund Incentives. In this approach, the practice sets either collection or production goals. When the goal is met, the percentage of collections or production established as the incentive amount is placed in a special fund for the practice. The fund is then used for an activity chosen by the staff, such as a team vacation or new furnishings for the employee lounge.

The advantages for using incentives? If properly implemented, incentives can increase productivity and reward employees in a tangible manner for effective work performance.

Performance-Based Raises

If salaries—and salary increases—are to contribute to employee motivation, then raises must be based upon merit. Further, consideration of salary increases should occur on a specific schedule, not at random or in response to employee requests. Therefore, once a year, each employee's salary should be reviewed in comparison with his or her performance evaluation.

A dentist could base salary increases and merit raises on three factors: 1) current economic trends; 2) practice profitability; and 3) the performance of the employee. All employees whose performance is rated as meeting or exceeding job requirements would be eligible to receive merit raises.

SAMPLE POLICY

Performance-Based Raises

We base pay increases in this practice upon merit. Raises are determined by the performance level of the individual employee, as documented through the performance evaluation process. An employee whose performance is rated as meeting or exceeding job standards will be eligible to receive a merit raise on January 1 of each year. Whether merit raises will be awarded in any given year, and if so, the amount, may vary from year to year based upon business conditions.

Staff Evaluations

Managing staff behavior and personalities is no easy task. But whatever the quality of performance, employees need feedback on how they are doing. If employees are told how you view their work performance, they have an opportunity to correct mistakes, improve performance and take pride in a job well done. Conversely, if employees do not get feedback, they may continue to make the same mistakes, missing the opportunity to improve performance. They may feel confused about their failures and unappreciated for their achievements.

Like many other employment decisions, performance appraisals are subject to state and federal labor laws and regulations. The bottom line is this: an employer must administer appraisals in a fair manner to avoid unlawful discrimination claims.

Performance appraisals should be specific and factual in detailing performance deficiencies and expectations for the future to avoid future claims that any termination decisions that may be made later were contrived or made for unlawful reasons.

Listed below are guidelines to follow when administering performance appraisals.

- **Deal with performance issues as they occur.** This proves the employer is ready and willing to remedy a problem.
- **Document both good and bad performance aspects accurately.** Give one copy of the appraisal to the employee, and file one in the employee file.

- **Do not write discriminatory notes.** Do not make comments or notes on appraisal forms that could be read to suggest you are making employment decisions based upon discriminatory criteria (e.g., race, gender or national origin).
- **Obtain the employee's signature on appraisal form.** The signature proves the employee received the appraisal. The employee does not have to agree with the rating. If the employee refused to sign the appraisal, the employee who is conducting the appraisal should indicate this in writing, and sign the form him- or herself.
- **Be consistent with performance appraisals.** Address performance issues consistently for all employees on a timely basis.

An effective evaluation program for small businesses has two components. One component is to conduct a formal performance appraisal on a yearly basis. The second component is to give frequent feedback on day-to-day performance.

Annual Performance Evaluation

An annual performance evaluation gives you a chance to communicate clearly to employees about their strengths and weaknesses in work performance. Thus, a performance evaluation session not only can improve work behavior, but can also increase employee satisfaction.

Performance reviews should be based on the responsibilities detailed in employees' individual job descriptions. Such reviews may be used to determine raises, promotions, probation and termination of employment. Each employee

should receive a formal appraisal once a year. (A new employee should receive a formal performance review at the end of his or her probationary period or after three months of employment. Future reviews for the new employee may then be conducted at the same time of year as the rest of the dental team.)

In conducting a performance evaluation, the dentist or supervisor reviews the employee's job description and completes an evaluation form. Then, the dentist/supervisor meets with the employee to discuss the employee's strengths and deficiencies and to set objectives for the coming year. Often, employers will give the employee an opportunity to provide written comments on the form completed by the supervisor. Employees should always play an active role in determining their professional goals for the next year.

Ongoing and Assessment Evaluations

Today, many office managers are talking more frequently with employees—not just during annual review time—to discuss strengths and

weaknesses. This gives employees a real-time sense of their day-to-day job performance and affords them an opportunity to correct failing performance, or acquire new skills and responsibilities. This management style acknowledges the importance of recognizing strong contributors and making them feel valued. It also assists the employee who may feel overlooked and apathetic.

The following sections offer example performance evaluation forms that you can customize for your office.

Of all the benefits offered by a dental office, dental coverage is one of the most valuable to your practice. Offering a generous dental care plan to your employees and your employee's family members presents you as a role model to your employees and patients regarding the value of dental benefits.

SAMPLE POLICY

Performance Evaluation Policy

It is the policy of this practice to provide employees with regular evaluations of work performance. The performance evaluation is a formal opportunity for the dentist and the employee to discuss job performance and career objectives. Performance reviews are based on the responsibilities detailed in the job descriptions, as well as on adherence to the standards of conduct expected by the practice. They form the basis for such important personnel decisions as merit raises, promotions and termination of employment.

Each new employee receives a formal performance review after the first three months of employment. Every employee receives a formal appraisal at least once each year, based on the job description and the performance evaluation form. The dentist or supervisor reviews the employee's job description and completes the evaluation form for supervisors. Then the employee and the dentist/supervisor meet to discuss the employee's strengths and where there is room for improvement. Employees will have an opportunity to make any comment they may wish to make on the evaluation form. Together the dentist/supervisor and the employee will set objectives for the coming year. Both parties will sign the completed evaluation form and a copy will be placed in the employee's personnel file.

FIGURE 6.1 PERFORMANCE APPRAISAL AND DEVELOPMENT PLAN

Performance Appraisal and Development Plan

Employee Name: _____

Employee Job Title: _____

Supervisor Name: _____

Supervisor Job Title: _____

Time Period Covered: _____

Rating Scale

5 = Superior. Goes above and beyond to exceed job requirements and objectives with minimal supervision. Highest level of performance that can be attained.

4 = Exceeds expectations. Frequently exceeds job requirements and meets all planned objectives.

3 = Meets expectations. 100% proficient in job requirements and duties with normal guidance and supervision. Meets planned objectives.

2 = Partially meets expectations. Infrequently meets job requirements and objectives. Further coaching and counseling with supervisor required.

1 = Does not meet expectations. Consistently fails to meet job requirements and objectives. Immediate improvement required to maintain employment. Recommendations include meeting with supervisor to develop action plan to achieve specific performance improvement benchmarks within a defined timeframe.

N/A = Not applicable to this employee.

COMPETENCIES AND SKILLS

General

- 1) Adheres to office rules and behaves in a professional manner, arrives on time, and exhibits consistent attendance.

Supervisor Rating	1	2	3	4	5	N/A
-------------------	---	---	---	---	---	-----

Supervisor Comment: _____

- 2) Works cooperatively with others, including colleagues, patients and business associates.

Supervisor Rating	1	2	3	4	5	N/A
-------------------	---	---	---	---	---	-----

Supervisor Comment: _____

- 3) Provides quality customer service.

Supervisor Rating	1	2	3	4	5	N/A
-------------------	---	---	---	---	---	-----

Supervisor Comment: _____

4) Shows initiative in acquiring new skills, such as pursuing CE credits, learning how to use new equipment, attending workshops, shadowing co-workers, etc.						
Supervisor Rating	1	2	3	4	5	N/A
Supervisor Comment:						
5) Shows good judgment.						
Supervisor Rating	1	2	3	4	5	N/A
Supervisor Comment:						
6) Demonstrates personal responsibility and ownership of projects and issues.						
Supervisor Rating	1	2	3	4	5	N/A
Supervisor Comment:						
Total Supervisor Rating Points:						
Job Duties						
1) Maintains appointment schedule.						
Supervisor Rating	1	2	3	4	5	N/A
Supervisor Comment:						
2) Proficient with technology and work tools, such as the practice management software system.						
Supervisor Rating	1	2	3	4	5	N/A
Supervisor Comment:						
3) Updates, organizes and maintains charts, patient accounts and financial records according to office standards.						
Supervisor Rating	1	2	3	4	5	N/A
Supervisor Comment:						
4) Contributes to meeting practice production goals.						
Supervisor Rating	1	2	3	4	5	N/A
Supervisor Comment:						
5) Educates patients effectively on hygiene, treatment plans, billing options, etc.						
Supervisor Rating	1	2	3	4	5	N/A
Supervisor Comment:						
6) Successfully performs required clinical tasks.						
Supervisor Rating	1	2	3	4	5	N/A
Supervisor Comment:						
7) Completes required tasks in a timely manner.						
Supervisor Rating	1	2	3	4	5	N/A
Supervisor Comment:						
Total Supervisor Rating Points:						

EMPLOYEE COMMENTS

This space is used by the employee to comment on any part of the performance appraisal and development plan.

This signature verifies that the employee and supervisor have met and discussed this evaluation form.

Employee Signature _____ Date _____

Supervisor Signature _____ Date _____

EMPLOYEE ACTION PLAN: MID-YEAR REVIEW

This page is used evaluate an employee's progress toward achieving their goals. It should be used six months after completing the Employee Action Plan: Next Year's Goals.

Goal #1

Goal: _____

Actions Taken Toward Achieving This Goal: _____

Target Date: _____

Goal #2

Goal: _____

Necessary Steps and Required Resources: _____

Target Date: _____

Goal #3

Goal: _____

Necessary Steps and Required Resources: _____

Target Date: _____

Employer Challenges

Today, there are numerous issues that face employers regarding the management of employees—from knowing exactly how to treat all of your employees fairly to dealing with an employee suspected of embezzlement. These are the challenges you face as an employer. This section is dedicated to helping you meet them.

Diverse Workplace Policy

The diversity of the American population is increasing. Chances are that your patients and your employees are also more culturally diverse. Your dental office environment should embrace the commitment to honor diversity, for cross-cultural communication is more important than ever.

In fact, many business owners today are welcoming different viewpoints with open arms, and are working hard to maintain a diverse staff.

According to human resources professionals, a diversity program in your dental office can:

- Increase employees' awareness of Equal Employment Opportunity laws
- Add a variety of viewpoints for use in strategic planning, decision-making and problem-solving
- Acknowledge the changing demographics of the work force
- Enhance employee relations
- Promote individual talents
- Reduce potential harassment and discrimination lawsuits
- Improve your business image in the community

Listed below are ways to implement diversity policies in your dental office.

- **Know your patient population.** Study the demographics of your patient population. Your practice philosophy should appeal to all of your patients.
- **Study trends.** Constantly make note of any societal trends that may have an impact on your practice. Be in tune with how your community is changing.
- **Survey your patient population.** Survey your patients and ask them what types of services you could offer, such as evening or weekend hours. Implement tactics to address patient needs. Periodically evaluate the success of diversity efforts. The ADA publication *The ADA Practical Guide to Internal Marketing: The Key to Dental Practice Success* offers specifics on developing and administering patient surveys. For more information, visit www.adacatalog.org or call 1-800-947-4746.
- **Hire a diverse staff.** Make it a point to try to hire bilingual staff. Bilingual employees not only help bridge the language gaps, but also the cultural ones.
- **Offer office forms and publications in more than one language.** Offer patient history and health forms and patient education brochures in a variety of languages, or large print for your patients who have trouble seeing. Reading material in the waiting room should offer a wide range of topics appealing to your various patient demographics.
- **Recognize all holidays.** You should be aware of how you handle religious and cultural holidays. Many business owners offer employees personal leave days for these holidays.
- **Offer benefits to “non-traditional” families.** Your benefits could include covering non-traditional families such as domestic partnerships and blended families.

SAMPLE POLICY

Diverse Workplace Policy

This practice values cultural diversity and other differences. It fosters an environment in which our dental team can work together to achieve organizational goals. We also recognize each team member's unique developmental needs and provide opportunities that maximize each employee's capabilities. This practice does not tolerate discrimination, and employment and promotional decisions will not be based on race, sex, sexual orientation, age, religion or other protected characteristics.

The Multigenerational Workplace

In addition to having a culturally diverse staff, many dentists face the challenges of managing a multigenerational workforce. There could be as many as four generations in one office, from "traditionalists," who, due to longer, healthier lifespans or financial need, are delaying retirement, to "millennials," who are just establishing the foundations of their careers.

Generally, generations are described in the following terms:

- **Traditionalists (Veterans).** Born before 1945. Value hard work, dedication and seniority that comes with age. Respect authority figures, rules and the distinct division between boss and employee.
- **Baby Boomers.** Born between 1946 and 1964. Value team work, personal development and loyalty. Believe in face-to-face communication, the importance of status and paying your dues before advancing.
- **Generation X.** Born between 1965 and 1979. Value independence, a casual work environment and work/life balance. May be skeptical of authority and are not afraid to question it. The first generation to grow up with computers.
- **Generation Y (Millennials).** Born between 1980 and 2000. Value teamwork like boomers, diversity and feedback. Grew up entrenched in technology and, as a result, are excellent multi-taskers. Products of the "helicopter" parenting style.

A multi-generational staff adds a wealth of knowledge and different points of view to your practice, but doesn't come without its difficulties. It is important to be aware of the different working styles of each generation, and to accommodate them the best you can. The list below offers suggestions of adaptations to increase the comfort level and productivity of the entire staff:

- Send managers to classes to identify generational differences and adapt. It is easier for a manager to change than to change the whole staff.
- Accommodate different learning styles. For example, traditionalists and baby boomers may be comfortable completing HIPAA training with a consultant in a group setting, while independent-minded gen Xers and millennials may be happy to complete online training by themselves.
- Keep employees engaged by offering training and educational opportunities, as well as work assignments outside their regular duties, such as writing the practice newsletter, developing a marketing piece or starting a practice Facebook page.
- Use recognition tools appropriately. While boomers who value status may appreciate a memo announcing a recent accomplishment, millennials might respond better to positive feedback and increased responsibility.
- Treat generational characteristics as guidelines, not as absolutes. There is no hard and fast rule that says a traditionalist can't be computer savvy, or that a gen Xer automatically disregards authority.⁴¹

Drug-Free Workplace

According to the U.S. Department of Labor, today in the United States, 75% of drug users are employed, costing American businesses billions of dollars annually in lost productivity and healthcare costs.⁴²

Studies have revealed that employees who abuse drugs have a negative effect on the workplace and may be inclined to:

- Have extended absences from work
- Show up late to work
- Be involved in workplace accidents
- File workers' compensation claims

These employees may also cause problems with their coworkers, possibly resulting in a workplace that is unsafe or unhealthy, or one having low morale and productivity.

Impairment in the dental office has a particular set of risks and costs to the practice. Consider the following factors:

- An impaired worker can jeopardize the safety of other workers.
- Depending on job responsibilities, patient safety may be compromised.
- Substance abuse can result in tardiness and unplanned absences, both of which are very disruptive to a dental office schedule.
- The practice is potentially at risk from damage to its reputation, litigation, or criminal activity.
- Your professional and Drug Enforcement Administration (DEA) licenses may be at risk if controlled substances are mishandled in your office, or there is prescription fraud in your name.

A drug-free workplace policy defines the protocol for crisis management. It provides documentation that you are in compliance with state Drug-Free Workplace laws if those apply—and some states may provide tangible benefits such as a discount on state Workers Compensation fees.

Any dentist is well advised to incorporate a drug-free workplace policy into standard office policies. Such a policy makes your expectations clear. It defines the protocol for crisis management. It provides documentation that you are in compliance with state Drug-Free Workplace laws if those apply—and some states may provide tangible benefits such as a discount on state Workers Compensation fees.

There are five components to a comprehensive drug-free workplace program:

1. Drug-free workplace policy
2. Supervisor (i.e., dentist) training
3. Employee education
4. Employee assistance
5. Alcohol and drug testing

1) Drug-Free Workplace Policy

A drug-free workplace policy should clearly state why the policy is being implemented (i.e., "The practice is committed to the safety of its employees and its patients."). It should include a clear description of prohibited behaviors, and a thorough explanation of the consequences of violating the policy.

Because the issue of employee substance use is legally complex, you should review your drug-free workplace policy with your attorney prior to implementing it.

While drafting your policies, you will want to draw up your own list of prohibited behaviors. Listed below are some topics you may want to address for your own office's policies.

- Staff are not to drink alcohol or use drugs on the job or in the office
- Staff are not to take controlled substances from office stock for their own use or the use of others
- No criminal activity will be tolerated in the office. This may include phoning in fraudulent prescriptions in the dentist's name; participating in scams with drug-seeking patients; and ordering controlled substances from pharmaceutical companies without the dentist's knowledge, etc.
- Nitrous oxide is never to be used by staff
- Staff are not to ask the dentist for a prescription for personal use
- The dentist should not write a prescription for staff or their family members unless it is for a dental procedure or treatment, the individual is a patient of record and there is appropriate documentation in the patient record
- Staff should not engage any patients in discussions about illegal drug activity, such as where to obtain drugs, how to sell pharmaceuticals on the street, etc.

Other components of the policy may include the following provisions, listed below.

- Off-duty use of drugs, alcohol or any other substances which results in impaired work performance (such as absenteeism, tardiness, poor work performance, damage to the employer's reputation, or inferior quality of work), is prohibited and is cause for discipline, up to and including termination. (Some states prohibit employers from taking any action against an employee for their off-duty use of legal substances, such as alcohol, tobacco, etc. You should consult with an attorney before implementing a policy that may run afoul of the law.)
- Any employee with patient care responsibilities who is taking a prescribed or over-the-counter narcotic or drug with the potential to cause practice impairment must advise the dentist. The dentist will determine whether the employee can continue to work and may, in some instances, need to consult with the employee's physician regarding the potential for impairment.
- Employees are required to notify you if they are convicted of a drug offense
- You may require drug testing of job applicants after an employment offer has been made but before employment begins. The employment offer may be contingent on passing the drug test. Test results must remain confidential.
- Subsequent drug testing may be done on either a regular basis (in which case several or all staff may be tested) or when there is "reasonable suspicion" that an employee is in violation of the policy (only that individual is tested).
- "Reasonable suspicion" includes an employee admitting to drug use, the odor of alcohol or other substances (such as marijuana or solvents) on the person, drowsiness, excitability, belligerence, paranoia, hallucinations, staggering, inattentiveness, witnessed use of drugs, etc.

- An employee who is reasonably suspected of being under the influence of alcohol or other drugs should be suspended without pay pending drug-testing or other investigation. *You should remember that if it is not safe for an employee to work, it is probably not safe for him or her to be driving and alternate transportation should be arranged.*
- Employees who refuse to submit to valid drug testing may be disciplined
- Random drug testing is a standard component of a monitoring contract when an employee returns to work following treatment for substance dependence. The employer is not responsible for this testing, but, under the contract, should be informed of any positive results.

Violation of the policy will result in discipline. This may include referring the employee for drug-testing through an authorized laboratory and evaluation by a substance abuse professional, making continued employment conditional upon compliance with any recommendations made by the professional. In some cases, you may decide to make a report to the employee's licensing board (for licensed employees) and, potentially, to terminate the employee.

2) Supervisor (Dentist) Training

This may be available through dental society continuing education programs, your local Small Business Administration, or a local hospital. The well-being program of your state dental society or the staff of your state's professionals health program should be able to provide some assistance in setting up a program. In addition, many hospitals have some sort of Employee Assistance Program (see Chapter 5: Employee Benefits), whether in-house or contracted, and have experience with drug-free workplace programs. Online resources may be found at www.dol.gov/workingpartners.

Areas in which you may need some training have to do with state and federal law. Examples include:

- How to recognize and deal with employees who have job performance problems that may be related to alcohol and other drugs
- Crisis management
- Setting up an agreement with a drug testing laboratory
- How to evaluate potential referral resources

It is not your responsibility to diagnose a drug or alcohol problem, only to refer an affected staff member to the appropriate addiction medicine professionals.

3) Employee Education

This should be done systematically, on at least an annual basis, and all employees should be required to attend. The following are content suggestions for your employee education program:

- A review of your office's drug-free workplace policies, including the penalties for violation
- The signs and symptoms of substance abuse or dependence, especially as they are manifested in the work environment
- Areas of vulnerability for healthcare workers, such as familiarity with drugs and their actions, access to controlled substances, the temptation to self-diagnose and self-prescribe, etc.
- Resources available for employees who have a substance abuse problem

4) Providing Employee Assistance

Providing employee assistance is the fourth component of a drug-free workplace program. You will need to decide what you would be willing to do for an employee with a substance abuse problem, in terms of offering the opportunity to participate in a treatment program and returning to work with some kind of monitoring contract.

It is not unusual for an employee with a substance abuse problem to have been viewed as an exemplary employee prior to the development of the problem. Rates of recovery from active addictive illness for healthcare professionals are very high, provided they receive appropriate treatment and comply with all continuing care recommendations.

The kind of assistance extended to a troubled employee should depend as well on the kind of workplace impairment—for example, you may wish to treat an employee who is tardy to work because of a hangover differently than an employee who engages in criminal behavior in the office.

It is a good idea to seek some outside assistance if you discover an employee has a problem with drugs. Dentists and their staff members often develop close working relationships and know personal information about each other. This can impede your ability to be objective. Denial, deception and manipulation are among the hallmark behavioral symptoms of addictive illness, making it crucial that you have someone available who can provide a “reality check” for you.

Most state dental societies have a dentist well-being program or knowledge of other resources that could provide you with this outside assistance. The staff and volunteers of these programs have experience with the issues of staff substance abuse, knowledge of applicable state and federal laws, and familiarity with local treatment resources.

Information is also available online through the ADA’s Dentist Health and Wellness section at www.ada.org/4497.aspx or by calling 1-800-440-2500 ext. 2662 or 7473.

Employee Assistance Programs (EAPs) are agencies that offer formal programs of short-term counseling and referrals to help employees address difficult personal issues, including workplace performance problems that result from alcohol and drug abuse. (For more information on EAPs, see Chapter 5: Employee Benefits.)

Under the Americans with Disabilities Act, current use of illegal drugs is not a disability, but an individual will be treated as disabled under the Act if the individual: 1) has successfully completed a drug rehabilitation program or has otherwise rehabilitated and is no longer using illegal drugs; 2) is participating in a drug rehabilitation program and is no longer using illegal drugs; or 3) is erroneously perceived as using illegal drugs, but is not engaged in such use. Of course, this portion of the Act will not apply to smaller dental offices, so check on your state/local requirements.

5) Alcohol and Drug Testing

Alcohol and drug testing is the last component of a drug-free workplace policy as defined by the Department of Labor. Since laws on drug testing differ from state to state, you and your attorney should consider those. Information on each state’s laws is available at www.dol.gov/asp/programs/drugs/said/statelaws.asp.

Pre-employment drug testing has become a standard and expected practice in many industries and workplaces. Testing for five drugs is required by many federal agencies—marijuana, opiates, amphetamines, cocaine and PCP. The panels for healthcare professionals are more comprehensive.

It is a good idea to seek some outside assistance if you discover an employee has a problem with drugs. Dentists and their staff members often develop close working relationships and know personal information about each other. This can impede your ability to be objective.

FIGURE 6.2 PRE-EMPLOYMENT DRUG TESTING AGREEMENT

Pre-Employment Drug Testing Agreement

I hereby consent to submit to a urinalysis and/or other tests as shall be determined by **(dental office name)** in the selection process of applicants for employment for the purpose of determining substance use.

I agree that **(dental office name)** may refer me for collection of these specimens for the tests and forward the results to **(the designated Medical Review Officer)**, and from the Medical Review Officer to the employer. The Medical Review Officer may report positive results to the employer.

I understand that the current use of drugs shall prohibit me from being employed by **(dental office name)**.

I further agree to hold harmless the laboratory and the Medical Review Officer from any liability arising in whole or in part from the collection of specimens, testing, and the use of the results from said tests in connection with **(dental office name)**'s consideration of my application for employment.

I further agree that a reproduced copy of this pre-employment consent and release form shall have the same force and effect as the original.

I have carefully read the foregoing and fully understand its contents. I acknowledge that my signing of this consent and release form is a voluntary act on my part and that I have not been coerced by anyone to sign this document.

Applicant's printed name: _____

Applicant's social security number: _____

Applicant's signature: _____

Date: _____

Witness' printed name: _____

Witness' signature: _____

Date: _____

Employment-related drug testing should be done only by drug testing labs that are able to:

- 1) insure the integrity of the collection process
- 2) document chain-of-custody for samples
- 3) have all positive results review by a medical review officer. A medical review officer (MRO) is a specially trained and certified physician who decides whether an employee has passed the drug screen.

If you decide to utilize employee drug testing, you should first make yourself aware of your community's resources for such testing. Your local hospital will be able to assist you with this, or you can get information from your state's dentist well-being committee or physician health program. You will need to enter into an agreement with the drug testing laboratory you select so that, should a crisis arise where you need to send an employee for for-cause testing, the mechanisms to do so are already in place.

Prior to pre-employment drug testing, the prospective employee must sign a "Pre-Employment Drug Testing Agreements." (See Figure 4.4.)

Responding to Evidence of Employee Drug Abuse or Drug Diversion

Warnings and Disciplinary Actions

If an employee is failing in his or her job performance, he or she should be confronted. If his or her job is in jeopardy, tell them.

There are many reasons why an employee may be disciplined. Some of these reasons include: poor job performance, insubordination, stealing, violence and using illegal drugs and alcohol on the job.

Explain, document and discuss poor work performance with your failing employee. Be fair, and offer your employee an opportunity to improve. You could even provide training to strengthen problem areas. In simple terms, disciplinary warnings are basically ways to convince employees to bring their performance up to par.

Consider disciplining an employee in steps, if the circumstances dictate: counseling, oral warning, written warning, probationary period (90 days, six months, etc.) and finally, termination. This is called progressive discipline. (However, if you are an at-will employer, you should consider noting in any progressive discipline policy or any progressive discipline memorandum to the employee, that

SAMPLE POLICY

Drug-Free Workplace Policy

This practice is committed to providing a drug-free workplace for our patients and employees. All employees are prohibited from being under the influence of alcohol or illegal drugs during working hours. The unlawful sale, possession or use of a controlled substance is strictly prohibited, and violators may be subject to immediate termination. All employees must notify the dentist of any drug conviction within five days after the conviction.

This practice recognizes drug dependency and alcoholism as health problems. As members of the health care team, we are committed to providing help to any chemically dependent employee who seeks it. We will assist the employee in meeting his or her responsibility to recover from substance abuse by treating him or her as any other employee with a health problem. The employee would be covered by any applicable health, sick leave, disability and other benefits according to office policy for medical problems.

If any employee refuses or does not attempt to correct a substance abuse problem, the employee will be subject to disciplinary action up to and including dismissal, even for a first offense.

your progressive discipline process is subordinate to the at-will employment relationship.)

By taking these steps and treating employees engaging in similar misconduct or having similar performance problems similarly and consistently, not only are you giving your employee another chance—an opportunity to save his or her job—you are also protecting yourself against potential lawsuits for unlawful discrimination. You are also showing your staff that you are a fair and just employer.

The number of warnings and counseling meetings depends on the policies of your practice. The most important thing to remember is to follow your policies and be consistent.

You may want to give two verbal warnings to an employee before issuing a written warning. Simply record the verbal warning, along with the date, in the employee's personnel record. The entry could look like this:

May 1, 2011 - Cheryl was 35 minutes late for work this morning and was warned about her tardiness. She was told that continued tardiness could result in further disciplinary action, up to and including termination of employment.

In addition, as you gather information to document an employee's performance problems, make use of diagrams, photographs, statements from witnesses and other supporting material. This can help you if the employee makes legal claims against you.

Listed below are the basic steps in a progressive disciplinary process:

- **Step 1: Talk to the Employee.** Talk to the employee to discuss problematic areas and what changes must take place to improve. This is considered a verbal warning. A written verification of the incident should be put in the employee's file.
- **Step 2: Give a Written Warning.** Give a written warning detailing the nature of the problem, the measures the employee is expected to take to resolve it, and a time frame within which improvement is expected. Tell the employee you appreciate his or her efforts, but that his or her job performance is not acceptable.
- **Step 3: Take Disciplinary Action.** If you feel the employee has not improved and you have provided enough assistance to help your employee, then take further the disciplinary action, such as a probationary period. As at every other stage in the disciplinary process, the employee should be told that any further problems might result in more drastic disciplinary measures being taken, including termination. If you are an at-will employer, you may want to state in your employee office manual/handbook that the disciplinary procedures are subordinate to both parties' right to terminate with or without cause.
- **Step 4: Suspension.** Possible suspension without pay.
- **Step 5: Termination.** Possible termination.

All steps of the progressive discipline process should be documented in detail. Both the dentist and the employee should sign written warnings and probationary notices. Documents can note, "The signature verifies the receipt of this document." This way, the employee does not have to agree with the document to sign it.

Place a copy of all written disciplinary documents in the personnel files. If a decision is made to provide your employee with the reason(s) for discharge in writing, this documentation should be reviewed with your attorney prior to giving the memorandum or letter to your employee.

For more detailed information on terminating employees, see Chapter 7: Employee Termination.

Embezzlement and Fraud

Embezzlement is the fraudulent appropriation of property by a person to whom it has been entrusted. It is an opportunity crime that can take place in any dental office. The most common profile of a dentist for target? A successful dentist-owner who is extremely busy and who relies too heavily on one trusted employee. Generally, the embezzler has been given more authority than the position calls for and often makes him or herself indispensable.

A common thread in embezzlement schemes is that most of them go on for years before the perpetrator is caught. A dental practice can lose a great deal of money before even suspecting that embezzlement might be going on. That's because by definition this crime is committed by someone in a position of trust.

An integral aspect of cash management is maintaining the security of cash while it is in the system. Since cash is a highly liquid asset, it is important to establish controls over its recording, maintenance and disbursement to prevent embezzlement. Simple controls built into the accounting system can often forestall any such practices in your office. In any case, the proper internal controls may help document the illegal activities, without which incriminating evidence it is difficult to estimate your loss for insurance purposes or even to prove that it resulted from a crime.

According to practice management experts, today's dentists are taking embezzlement very seriously and fighting back, prosecuting embezzlers and demanding repayment of their stolen monies and assets.

Methods of embezzling are limited only to one's imagination. Below are just a few of the methods that an embezzler might use to "borrow" funds from the practice. One method or many might be used.

- **Taking cash.** In the simplest situation, cash is received and the employee merely pockets it without making a record of the transaction.

- **Lapping.** Lapping involves the temporary withholding of receipts such as payments on accounts receivable. This system can become quite complicated to conceal over time as the accounts have to continually be falsified—be alert for the loyal, dedicated employee who never takes a vacation, or even lunch!
- **Check-kiting.** The check-kiter must be in the position to write checks on and make deposits in two or more bank accounts. One account could be the embezzler's personal account and the other a business checking account.
- **Dummy supplier(s).** This involves falsifying documentation of fictitious purchase transactions.

Responsibility for tasks involving money should be assigned to different staff members whenever possible so that no one person has control over all aspects of the cash function. For example, the person responsible for reconciling bank balances to account balances should not be assigned functions relating to receipt or disbursement of cash or preparation or approval of payment vouchers. If this is not possible, the dentist should share in alternating the various processing aspects of cash management with staff.

A monthly reconciliation of bank balances should be performed. This will assure recognition of all items recorded in the accounts. The reconciliation procedure should include examining checks for appropriate signatures and endorsements and reconciling bank transfers.

The first and one of the most important things the dentist should do is to set a good example. Your employees watch what you do and tend to imitate your habits—whether good or bad. A dentist who inflates an expense account, uses company funds or petty cash for personal items or sets other examples of lax business behavior will find employees rationalizing their own dishonest actions with the attitude, "If it's all right for the boss, it's ok for me."

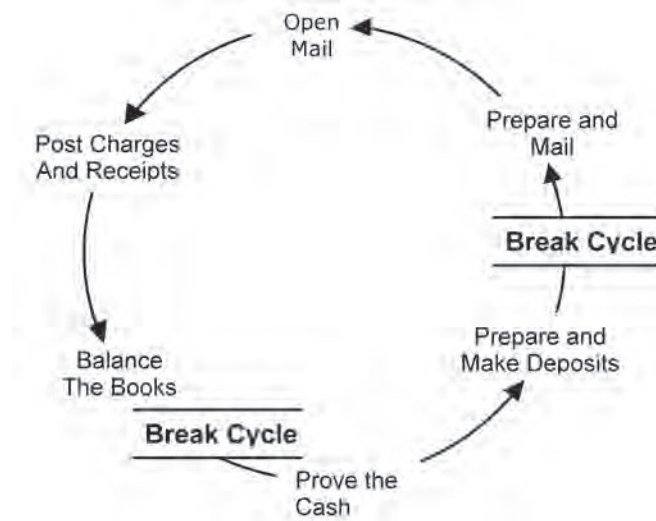
Another important way a dentist can discourage embezzlement is by establishing a climate of accountability. Employees should know their jobs and feel trusted. But they should also realize that they are held accountable for their actions. To some people, management indifference in financial administration is a license to steal. In addition, here are several suggestions that you may wish to implement:

- Have your canceled checks and bank statements mailed to your home address and review them yourself (Does the account routinely fail to balance?)
- Check new employee references diligently
- Consider bonding insurance on your employees
- Require employee vacations
- Be aware of an employee who is overly protective of day sheets, ledgers or computer records, or who volunteers too eagerly and protectively to open mail and go to the bank
- Rotate personnel who handle cash transactions
- Closely monitor accounts paid with cash
- Be knowledgeable of the office financial affairs by reviewing the day sheet or the computer summaries
- Monitor adjustments, write-offs, and refunds with strict bookkeeping procedures
- Make deposits daily
- Sign all your own checks; a signature stamp invites theft
- Do not sign blank checks
- Sign checks only when supporting documentation is attached.
- Stamp checks with "for deposit only"
- Retain authority for balance "write-offs"
- Review the monthly billing statements (Do patients frequently complain about billing errors?)
- Interrupt the accounting chain cycle (illustrated below in Figure 6.3)
- Consider external CPA review on a regular basis
- Balance the total of the ledger accounts with the accounts receivable running balance
- Watch for regular inventory shortages or increases in the cost of supplies without an obvious cause
- Review supplier contracts on a random basis and obtain competitive bids from other suppliers prior to renewal
- Compare monthly statements from vendors with listed invoices each month
- Get fidelity coverage added to your business insurance policy, if not already included

It is important that at some point the cycle is interrupted so that no one person is responsible for all the activities. In this manner, another person may be able to provide a necessary check and balance to the system.

FIGURE 6.3 THE ACCOUNTING CHAIN CYCLE

The Accounting Chain Cycle⁷



Implementation of cash flow procedures cannot insure your business against embezzlement, nor can it guarantee that problems will not arise. However, it can help you anticipate and control the financial consequences of these problems so that you are better prepared to respond quickly and effectively to any circumstance. Some additional ways to protect practice funds in the accounting chain cycle include:

- **Give employees only limited access to sensitive areas.** Give employees, especially new ones, only limited access to sensitive areas. Software that requires multiple levels of passwords protects access and confidentiality of your financial records and patient records. Control is more assured if employee passwords depend on use with the dentist's password. The dentist may even wish to run a computer audit each night before the office closes and take the tape or disk home.
- **Use controls.** Let employees know you implement careful controls to keep the practice honest. Review collection records once a week; review financial statements and patient receivable balances once a month. Personally approve write-offs of patient balances over \$100. Compare the number of patients each month with the revenue and cash receipts to judge their accuracy. Make your own deposits. Review the amount of cash deposits, since many patients still pay smaller bills in cash.
- **Divide bookkeeping responsibilities.** Divide bookkeeping responsibilities. Examples: Check disbursements should never be prepared by the general bookkeeper. Or, within the accounts receivable function, have one person write deposit slips for checks, but have another person take deposits with slips to the bank. Cross-train these positions, and shift responsibilities from time to time. This affords coverage in times of sickness and vacations and precludes a comfort level that invites theft or embezzlement.
- **Work with your accountant.** With your accountant, perform bank account reconciliations monthly and compare cash receipts to the decrease in accounts receivable. Investigate any accounts that age beyond your normal credit terms. Contact these patients directly, and inquire if there is a problem.

- **Account for all your check numbers.** Verify that last month's ending number corresponds with this month's beginning number. Keep voided checks with canceled checks in appropriate sequence.
- **Be unpredictable.** Conduct audits at irregular intervals by requesting such practice records as the appointment book, accounts receivable records, day sheets or bank deposit slips. Let employees know you do such audits, and by doing so you can help discourage embezzlement.
- **Use a lock and key.** A practical, affordable way to protect such valuable office resources as blank checks, receipts and accounting records is to lock them up. Restrict access to trusted employees during office hours.
- **Ask the experts.** Hire your outside accountants to review your financial management system. Ask them to describe the weaknesses of and practical solutions for your particular system. See an accountant or attorney before you confront an employee whom you suspect may be stealing.

Embezzlement usually begins with in innocuous ways—using office postage on personal correspondence or “borrowing” gas or lunch money from petty cash. When there are no repercussions for such activities, the employee may move on to more ingenious means of supplementing his or her income. By instituting the safeguards discussed above and making sure all staff are aware of the audit processes in place, you should be able to protect your practice from employee theft without creating an atmosphere of mistrust.

If an employee is suspected of embezzlement, contact your accountant and/or your attorney immediately. Various options, such as an internal audit, could put your mind at ease.

Summary

Investing time in relationship-building can have many positive effects on your practice. However, it is important to acknowledge that this cannot be accomplished by words alone. Enlisting the help of your staff for ideas and resources, offering team-building opportunities and incentive programs, and encouraging staff to take advantage of continuing education opportunities are critical in building an environment of trust and goodwill. Positive relationships and effective communication with staff may also assist in conducting fair evaluations, reducing your chances of being embezzled, and addressing problems before they become larger issues.

Chapter 7

Terminating Employees

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Chapter 7.

Terminating Employees

Letting an employee go is never easy, and to the terminated employee, it can be perceived as the result of “unfair” treatment. For many people, their work is their livelihood and a termination can be devastating. Remember this and consider your employee’s feelings when you have to put an end to your working relationship.

Dentists should seek the advice of an experienced attorney familiar with relevant federal and state laws before terminating an employee. Discuss with your lawyer the use of a progressive discipline system as well as an office policy on responding to prospective employers who inquire about your former employees.

Learning Objectives

- **Describe various reasons for terminating an employee**
- **Develop your own termination of employment checklist**
- **Discuss handling reference requests for a terminated employee**
- **List HIPAA considerations when terminating an employee**
- **Identify post-termination issues and how to resolve them**

For more detailed information on employee termination, refer to the ADA publication *Terminating Employment in a Dental Office*. Written by the ADA Division of Legal Affairs, it offers expert advice on the complex process of letting go of an employee. It is available at www.adacatalog.org or by calling 1-800-947-4746.

Reasons for Termination

There are many possible reasons for a termination. Some of these include:

- Absenteeism
- Conviction of a job-related crime
- Damage to practice property
- Data security/privacy rule violations
- Financial fraud or embezzlement
- Harassment
- Incompetence
- Insubordination
- Low productivity
- Misrepresentations on job applications
- Negligence
- Practice rule violations
- Prescription fraud
- Safety violations
- Theft
- Unauthorized use, sale or possession of drugs
- Workplace violence

An employee may also be discharged for business reasons, such as when the position is no longer necessary to the practice, or because the practice suffers a significant loss of patients or revenue.

If you terminate an employee who has not had a “warning” and who has received good performance appraisals, your legal exposure may increase. For example, consider disciplining an employee in steps, which may include all or some of the following depending upon the circumstances: counseling, oral warning, written warning, probationary period and, finally, termination. This is called progressive discipline. (Your documentation should state that your progressive discipline process is subordinate to your at-will employment status.)

According to employment law experts, you should be careful about the timing of the employee termination. For example, it is generally not advisable to discharge an employee during times when they are experiencing health or personal problems, or right before a holiday. Also, do not discharge an employee right before they are supposed to receive a raise. Even if you have valid reasons for the dismissal, other people will see that as being the main reason for the firing. A jury may see it as such, too, if the incident were to ever result in a legal claim. A termination may be questioned if the employee has recently received a commendation, award or merit increase.

FIGURE 7.1 TERMINATION OF EMPLOYMENT CHECKLIST⁴³

Termination of Employment Checklist

Employee Name _____

Position Title _____

To Do ☒

- ☐ If termination is for an offense or incident that the employee maintains did not occur, or may have occurred differently than you understand it, make certain that you have given the employee a full and fair opportunity to explain his or her side of the story. You should also have spoken to witnesses (if any), heard both sides of the story, looked at the evidence, and not prematurely jumped to a conclusion.
- ☐ If the termination is involuntary, strongly consider consulting with an employment attorney prior to actually terminating the employee, especially when the employee is a member of a “protected class,” e.g., race, gender, national origin, age over 40, etc. Even if you are an at-will employer, it is useful to have written documentation confirming the termination has taken place for non-discriminatory reasons (e.g., performance problems). If the employee is a member of a protected class, be prepared to discuss with your attorney (a) the employment history of other protected class members who are (or were) employees, and (b) any history of the same or similar offense(s) having been committed by other or former employees, whether or not they are members of protected classes.
- ☐ Collect from the employee a hard copy of the signed resignation letter, if applicable.
- ☐ Obtain a signed copy of any severance acceptance and release agreement, if applicable.
- ☐ Set up exit interview date.

- ☐ Provide employee with any required post-employment information (or schedule a timely mailing where permitted by law). This may include continuation of benefits information for health insurance, COBRA information, life insurance, etc., and retirement plan notices or forms, as applicable.
- ☐ Give the employee his or her final paycheck or arrange to mail it, depending on state law requirements.
- ☐ Obtain office key(s) (building, office, desk, files, cabinets, etc.), ID cards, badges, and the like from the employee and cancel any keycard access.
- ☐ Review any list of company-furnished property received by the employee during his or her employment, and verify that all employer-owned equipment and office-related items (computers, cell phones, books, uniforms, portable storage devices, etc.) have been returned.
- ☐ Locks or lock combinations should be changed, as well as the password for any office security (alarm) system and other access codes (such as computer access passwords).
- ☐ Cancel voicemail and e-mail accounts and change practice management software passwords, if applicable. Re-route voice messages as appropriate.
- ☐ If the employee had a business credit card, check-writing and/or banking responsibilities, cancel these authorizations with the various institutions. The same applies to any ordering authority with vendors.
- ☐ Inform other employees that the individual is no longer employed and instruct them how to handle phone calls or patient inquiries about the former employee.
- ☐ Designate an individual to handle requests for employment verification, and decide beforehand what information will be confirmed.

Note: Under the HIPAA Security Rule, implementing procedures for terminating access to electronic protected health information when the employment of a workforce member ends is an addressable implementation specification. Therefore, covered entity dental practices should consider developing and implementing procedures such as:

- ☐ Immediately notify the Security Official of any workforce member's termination.
- ☐ When a workforce member leaves the practice or no longer requires access to protected health information, immediately terminate access and invalidate or remove authorization and authentication credentials as appropriate.
- ☐ Audit termination procedures periodically.

The HIPAA Security Rule requires covered entities to implement procedures to regularly review records of information system activity. If such a review indicates inappropriate activity or attempted unauthorized access, the covered entity should investigate, assess, and respond to the incident as a potential breach or security incident in compliance with HIPAA.

More information on HIPAA compliance can be found in *The ADA Practical Guide to HIPAA Compliance Privacy and Security Kit*, available by calling 1-800-947-4746 or visiting www.adacatalog.org.

Handling References

You may wish to adopt a policy of answering inquiries about former workers by simply confirming dates of employment and position title, without disclosing why an employee left. This approach is called a “neutral reference,” and minimizes your exposure to libel or slander allegations. From a risk perspective, a neutral reference policy is the best way to protect yourself. However, this kind of straightforward policy would have to be applied across the board for all former employees—those who performed well as well as those who did not.

Exit Interviews

Exit interviews are an invaluable method of understanding the reasons for employee turnover and turnover rates. By taking the time to track reasons for employee departure, a business owner has an opportunity to address and correct any underlying systemic problems in the workplace.

Consider having exit interviews conducted by a third-party who is experienced in dealing with sensitive issues. Generally, these interviews are done in person; but they can be done over the telephone as well. If you decide to conduct an exit interview in this way, you may want to consult your attorney to discuss any legal implications of exit interviews.

Figure 7.2 shows an exit interview checklist that includes certain steps to close out a workforce member’s access to protected health information upon exiting the practice, irrespective of whether the workforce member left voluntarily or involuntarily.

Post-Employment Competition

If the terminated employee is an associate dentist, you may be concerned about losing patients the former associate treated. In certain circumstances, you may be afforded some protection by having the employee sign a non-compete agreement (sometimes referred to as a restrictive covenant).

State law varies greatly on the enforceability of non-compete agreements, so you should consult an employment attorney to make sure the agreement is valid in the state in which you practice. For example, some states will uphold reasonable agreements between a dentist and an employee associate or partner, but not with an associate classified as an independent contractor. Other states will only enforce non-compete agreements entered into at the beginning of the employment relationship, while others may permit agreements to be entered into later on in the employment relationship. Still other states will not enforce restrictive covenants among physicians and dentists at all because they violate public policy concerns, such as a patient’s right to choose his or her physician or dentist and to continue ongoing professional relationships once established, or to preserve perceived benefits derived from having a larger number of practitioners from which patients may choose.

In general, if enforceable at all, a restrictive covenant must not unreasonably restrain the associate’s ability to earn a livelihood. This typically means that the agreement must be limited in time (e.g., one year) and scope (e.g., the associate is restricted from treating patients whom he or she

SAMPLE POLICY

References Policy

This practice does not provide employment references for current or former employees. If contacted by a prospective employer, we will provide only the dates of employment and last position held. Should you receive a call or e-mail requesting a reference, please forward it to the office manager.

FIGURE 7.2 SAMPLE WORKFORCE MEMBER EXIT INTERVIEW CHECKLIST⁴⁴

Workforce Member Exit Interview Checklist

Name of Practice _____

Address _____

City _____ State _____ Zip _____

Departure Effective Date _____

___ Disable immediately user ID and passwords to practice management system.

___ Disable immediately user ID and password access to electronic health records.

___ Credit cards returned; cancel online purchasing authority.

___ Retrieve any portable electronic devices.

___ Cancel telephone and voicemail.

___ Retrieve keys; cancel keycard or biometric access privileges to facility.

___ Handbooks, including policies and procedures, returned.

Human Resources List

___ Letter of resignation received or notice of termination delivered.

___ Final timesheet and/or activity report delivered.

___ Final check sent to address provided by workforce member.

___ Forwarding address on file.

___ Benefits (health, retirement contributions, sick leave/vacation leave) discussed.

personally treated, or from seeing patients within a certain mile-radius from your practice). What constitutes a reasonable duration and scope of practice prohibited will depend greatly on local factors, including the size of the community in which your practice is located.

Termination Details

As mentioned earlier, you are allowed in most states to fire an employee without a contract for any reason or for no reason at all. In legal terms, this is called “at-will” employment. In lay terms, it means that either the employer or the employee is free to end the work relationship at any time and for any reason. Consult with your attorney regarding individual state regulations.

There are, however, limits to your ability to fire employees. Under a variety of state and federal employment rights acts, employees cannot be terminated on the basis of such characteristics as race, gender, religion, age or disability. Title VII, covering all private employers having 15 or more employees, prohibits discrimination based on race, color, religion, sex or national origin with respect to hiring, firing, promotion, compensation and other terms and conditions of employment. Workers aged 40 and over are protected under the Age Discrimination in Employment Act for employers with 20 or more employees. The Americans with Disabilities Act, effective for employers with 15 or more employees, prohibits discrimination against a qualified person with a disability in firing, promoting or other decisions affecting employment.

Most jurisdictions also recognize “public policy exceptions” to the “at-will” doctrine. These exceptions provide that an employer cannot

discharge an employee if the termination would violate a fundamental public policy in that particular state. For example, a staff member cannot be fired for reporting practice breaches in OSHA standards. Or, if an employee refuses to break a law, he or she cannot be fired for that refusal. For example, a dental hygienist fired for refusing to perform a procedure that state law says only a licensed dentist can do may be able to assert an employment claim against the employer. Likewise, a public policy exception could exist when an employer fires an employee in retaliation for filing a legally assertable claim. An example would be a worker discharged for making a valid worker’s compensation claim.

Another exception to the employment-at-will doctrine may exist when there is an employment contract, either expressed or implied, between the employer and employee. In this situation, an employer usually has a written contract or oral contract with the employee. This contract usually specifies certain terms and conditions of employment. In addition, some courts have held that an implied contract of employment may exist when provides a worker with an employee handbook or manual. If you decide to use an employee office manual or handbook, have your lawyer carefully review it to avoid forming either an expressed or implied contract. You may want to include a statement such as this:

This employee handbook is not an expressed or implied contract of employment. [Dental office] reserves the right to change, modify or delete any provision of this employee handbook at its sole discretion with or without notice. Either [dental office] or employee may terminate the employment relationship at any time with or without notice or cause.

There are limits to your ability to fire employees. Under a variety of state and federal employment rights acts, employees cannot be terminated on the basis of such characteristics as race, gender, religion, age or disability.

When an expressed or implied employment contract exists, the employer may often only terminate the contract and the employment for “good cause.” Court-considered factors in determining whether an implied contract exists include assurances of continued employment, designations of employees as “permanent” after initial training periods, letters setting forth an “annual” salary and thus suggesting a one-year contract, and clauses in employee handbooks implying discharge occurs only for unsatisfactory performance.

When you terminate an employee, you may wish to follow the progressive disciplinary process described in this chapter. Must you always follow the disciplinary process before termination? No. In a pure at-will employment relationship, an employee can be terminated without proceeding through a disciplinary process. However, if you do get sued, it is useful to have documentation evidencing your non-discriminatory reasons for firing the employee. In addition, conduct such as violence, theft, falsifying records, release of confidential information, sexual harassment, and drug or alcohol abuse at work may not require strictly following a progressive disciplinary process; they may be cause for immediate termination without severance pay. All earned salary and accrued vacation compensation must be paid, even when discharge is based upon “gross misconduct.” Document the cause of termination in writing for personnel files.

Post-Termination Issues

Discrimination Claims

On the most basic level, a discrimination claim is an allegation that a person was treated less favorably than others because of membership in a “protected class.” A member of a protected class is someone with one or more characteristics or factors which cannot be the basis of decisions affecting employment. A few examples of characteristics of a member of a protected class include race, sex, color, religion and age. Characteristics under the umbrella of “protected class” may vary from state to state so it is important to consult an attorney familiar with the laws in your jurisdiction.

Your best protection from discrimination claims is thorough documentation. But, for example, if you fire a female employee for having “poor interpersonal skills,” you must be careful to link her interpersonal skills to job requirements and particular instances of bad behavior, as distinguished from gender stereotypes or generalizations about women as a class. For example, a termination memo that states you “are tired of her mood swings” or speculates that PMS may be the cause of bad behavior may have undesirable legal consequences.⁴⁵

Your best protection from discrimination claims is thorough documentation. But, for example, if you fire a female employee for having “poor interpersonal skills,” you must be careful to link her interpersonal skills to job requirements.

Your documentation must be precise and objective. A detailed memo that lists specific dates and describes instances of how poor interpersonal skills have negatively affected your practice may be your best bet for avoiding legal action if a claim is filed. Of course, should a dismissed employee file a discrimination claim, it is best to consult an attorney in your jurisdiction who specializes in employment law.

Wrongful Termination

Wrongful termination, also known as “wrongful dismissal,” is when an employee is terminated in violation of the terms of his or her contract or in violation of public policies.

Employers must be careful when terminating an employee, and, once again, thorough documentation and a detailed employee handbook outlining office policies are the best ways to defend yourself against potential wrongful termination claims. You should also have your employee handbook reviewed by an attorney to make sure your policies comply with state and federal laws.

The following can be viewed as potential reasons for wrongful termination suits:

- **Discrimination.** Example: a supervisor terminates a woman because she is pregnant.
- **Retaliation.** Example: an employee notifies authorities about unsafe working conditions and is terminated in retaliation for doing so.
- **Employee refusal to break the law.** Example: a supervisor asks an employee to sign a consent form on behalf of a patient who forgot to sign the form. The employee refuses, and is terminated.
- **Employer not following termination procedures.** Example: a supervisor terminates an employee and does not use the process outlined in the employee handbook.

A good rule of thumb when regarding these types of claims is to remember that disciplining or terminating an employee for exercising rights protected by federal and state law could likely result in legal action.

Defamation Claims

Defamation is a false communication to someone that calls another person's character into question. The term "libel" refers to written defamation and the term "slander" refers to verbal defamation.

Your most likely risk of receiving a defamation claim from a former employee generally arises when a potential employer of the terminated individual calls as part of a reference check. Earlier in this chapter, we discussed "neutral references" where the past employer discloses minimal information, such as affirmation that the employee worked at the practice, the dates of employment and the last position held. This information is given without revealing why the employee left. The less information you give, the fewer opportunities for defamation claims.

Defamation can also work the other way. For example, a disgruntled employee may falsely say negative things about your practice. In this case, it is best to discuss the matter with a qualified attorney to see if you have a case.

It may also be a good idea to make sure you are OSHA compliant. Many OSHA complaints against dental offices are triggered by disgruntled employees. If you terminate an employee, be certain you are in compliance with the OSHA standards.

Summary

Before you terminate an employee, it is important to have an action plan in place for both before and after the employee's termination, in addition to detailed documentation of the reasons leading up to the termination. It may be a good idea to review your plan with an attorney who is knowledgeable about the employment laws of your jurisdiction.

If you choose to use a progressive discipline system, a section in your office manual which explains and outlines the use of this method may be helpful in making sure your staff understands the system, and also protecting your interests. You can also look for resources from the ADA, as well as your state and local dental societies.

Chapter 8

Patient Management

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Chapter 8.

Patient Management

Patient management is everyone's job, but you set the tone with how you treat your patients. Employees should be knowledgeable about your patient management policies, and follow your example. This chapter will discuss ways of managing a diverse assortment of patient groups, from when they first encounter your practice to the completion of treatment.

Learning Objectives

- Describe how employees can enhance patient relations in every phase of treatment
- Discuss basic aspects of patient psychology
- Identify various communication barriers
- List different patient groups and ways to interact with each of them

Patient Relations

Patient Communication Policy

Communication skills are valued as much or more by patients as clinical skills. Personal contact with you and your team, whether positive or negative, is a memorable aspect of dental care. Patients assess the quality of their care on their perception of clinical excellence and on communication competence. Further, research throughout healthcare points to a strong link between the communication skill of the healthcare provider and patient satisfaction. Here are sample communication guidelines that will improve patient contact, and thus build patient satisfaction.

SAMPLE POLICY

Patient Communication Policy

The image of this practice depends upon its employees. You speak for the dentist and other team members whenever you come in contact with patients. Further, this practice values patient communication skills as much as clinical skills in its employees. Please use the following guidelines in your patient contact:

Telephone Communication

- Answer before the third ring.
- Smile as you speak to the caller.
- Begin with "Dr. (Dentist)'s office. (Your first name) speaking."
- Find out the reason for the call without interrupting.
- Offer to help the caller.

(Continued)

- *Speak pleasantly despite pressures.*
- *Speak professionally.*
- *Use the caller's name.*
- *Gather the necessary information — name, phone number, reason for the call — when taking calls for other staff members.*
- *Record phone messages accurately and completely.*
- *Ask for permission before placing callers "on hold."*
- *Thank the patient for calling; end without sounding abrupt.*
- *Check the answering service or voicemail for messages at the beginning, middle, and end of each working day.*
- *Revise outgoing messages as needed.*

Reception Communication

- *Smile and greet patients by name as soon as they enter the practice.*
- *Use patients' last names until invited to use first names.*
- *Sit or stand erectly and use good eye contact.*
- *Listen to the patient's point of view and paraphrase it to his or her satisfaction.*
- *Answer questions concisely but completely.*
- *Explain the reason for appointment delays and offer to reschedule the appointment. If the patient decides to wait, offer them a refreshment.*
- *Avoid slang and dental jargon.*
- *Speak pleasantly despite pressures.*
- *Explain clearly the financial policies of the practice.*
- *Let patients know they are welcome in the practice.*

Treatment Communication

- *Know each patient's name and reason for the appointment before greeting him or her.*
- *Smile and greet patients by name as they are escorted to the treatment area.*
- *Sit or stand erectly and use good eye contact.*
- *Listen to the patient's point of view and paraphrase it to his or her satisfaction.*
- *Answer questions concisely but completely.*
- *Check on the patient's comfort during the treatment.*
- *Support the doctor's comments to the patient.*
- *Compliment the doctor's treatment to the patient.*

- Use short sentences and simple language when giving instructions.
- Convey confidence in the quality of your work.
- Avoid using “dentistry” words. Do not use words that could evoke anxiety and defensiveness, such as “drill,” “pain,” “shot,” or “bill.” Instead, use more positive terms, such as “prepare,” “discomfort,” “injection,” and “statement.”

Patient Psychology

For some patients, a trip to the dentist is an anxious and fearful experience. A dentist must build trust in order to provide the highest standard of care, but it is difficult if a patient is apprehensive.

The sample policy below can help you and your staff create trust and make patients more comfortable during treatment.

SAMPLE POLICY

Patient Psychology Policy

In this practice, our policy is to work together to build trust between patients and staff. The best way to do this is to listen to the patient. By allowing patients to tell their stories and share their fears, we can understand the root of their anxiety and get a better idea of how to approach treatment.

After listening to the patient, follow these steps to thoroughly assess patient needs and make them more comfortable:

- Ask questions and consider the patient’s answers carefully.
- Review the patient history to determine any underlying health issues.
- Ask permission to enter the patient’s personal space.
- Before beginning treatment, discuss the cost and payment options.

For some patients, a trip to the dentist is an anxious and fearful experience. A dentist must build trust in order to provide the highest standard of care, but it is difficult if a patient is apprehensive.

Managing Various Patient Groups

Emergency Patients

It is important to have a plan in place for when an emergency patient walks through the door of your practice. The sample policy below provides guidance to staff on how to respond to emergency patients.

Pediatric Patients

Pediatric patients pose a special challenge to dentists and staff. It is important to give pediatric patients (and their parents) a sense of safety and security so that future dental visits will be positive experiences, not scary ones. The sample policy on the next page demonstrates techniques your staff can use to make pediatric patients feel safe and at ease.

Pediatric patients pose a special challenge to dentists and staff. It is important to give pediatric patients (and their parents) a sense of safety and security so that future dental visits will be positive experiences, not scary ones.

Geriatric Patients

Geriatric patients have their own special needs, and you and your staff may need to adjust your communication style to cater to these patients. The sample policy on the following page offers guidelines for working with geriatric patients.

SAMPLE POLICY

Emergency Patients Policy

From time to time, we will encounter an emergency patient. It is our office policy to reserve one appointment space every two hours for emergency patients.

The process for dealing with emergency patients is as follows:

- 1) Remain calm.*
- 2) Assess the injury's severity using the following questions:*
 - o Have you bitten your tongue, lost a filling or a crown, or broken or somehow damaged your tooth?*
 - o Are you in pain?*
 - o Do you have a fever?*
 - o Is there swelling?*
 - o How long have you been in pain?*
 - o Where is the pain exactly?*
 - o Can you rate the pain on a scale of 1 – 10?*
 - o Do you think any bones are broken?*
- 3) If the injury can be treated at the office, set-up an appointment for the patient. The more severe the injury, the earlier the appointment*
- 4) If the injury cannot be treated at the office, direct the patient to call 911 or provide instructions to the nearest emergency room.*

SAMPLE POLICY

Pediatric Patients Policy

This practice is committed to establishing the foundations of good oral health to our pediatric patients by making them feel comfortable and secure. The methods below should be used to ensure a positive dental experience for our youngest patients:

- *Use the Tell-Show-Do method. Tell the patient what you are going to do, then show them and finally actually do it.*
- *Coaching, distraction, and parent participation can help a child during dental treatment.*
- *Praise the child often for good behavior. Everyone loves a compliment, especially a child who may feel shy or intimidated during dental treatment.*
- *Let the parents stay in the treatment room with young children. According to the American Academy of Pediatric Dentistry, with older children, "doctor-patient communication is often enhanced if parents remain in the reception room."*
- *Speak calmly but firmly if a child misbehaves, keeping your voice level and your tone even.⁴⁶*

SAMPLE POLICY

Geriatric Patients Policy

Our practice realizes the importance of maintaining the good oral health of geriatric patients. The guidelines below should be used by staff to make sure geriatric patients are comfortable and receive the highest quality of care:

- *Take a thorough patient history to uncover any existing medical conditions, such as diabetes, osteoporosis, heart conditions, or a compromised immune system.*
- *Tell the patient everything that you are going to do before you start treatment.*
- *Remember to go slowly. Dental fear in the elderly is similar to that seen elsewhere.*
- *Frequently ask your patient if they are comfortable. For instance, older patients may need to use the restroom more frequently.*
- *Try to keep the appointments short. An older person may not be able to sit for a long period of time.*
- *Schedule the appointment time to coincide with your patient's best period of functioning, whether that is in the morning or afternoon.*
- *Remember to invite a family member or aid to accompany your older patient during their dental visit if they are used to having such support and companionship.⁴⁷*

Patients with Special Needs

Patients with special needs are often an underserved population because dental offices do not always have the facilities or the staff available to treat them. The term “special needs” can encompass a variety of conditions, such as, though not limited to:

- Physical disabilities that limit mobility
- Alzheimer’s Disease
- Autism
- Dental anxiety

Resources, such as the Special Care Dentistry Association (www.scdonline.org) and the International Association for Disability and Oral Health (www.iadoh.org), can provide tips and resources for the treatment of patients with specific special needs.

Late Patients

Nothing is more frustrating than a late patient who demands to be seen despite his or her tardiness. Again, patience and a consistent policy are the keys to effectively managing this type of patient.

No-Show Patients

Patients who miss their appointments cost you money and time, and can disrupt your schedule for the rest of the day.

It is important to have a consistent policy in place for no-shows. You may decide to impose a fee for patients who miss appointments or cancel appointments with less than 24 hours notice. Make staff aware of the consequences of missed appointments so that everyone is on the same page.

SAMPLE POLICY

Patients with Special Needs Policy

Our practice makes accommodations for all our patients, including our special needs patients. Here are some general tips to make a special needs patient comfortable and more accepting of treatment:

- *Slow down and fully explain what you are going to do in plain language. When using an instrument, say its name and tell how you are going to use it.*
- *Certain patients may require more head stabilization than others. You may wish to have your another staff member help you with this.*
- *Complete treatment in phases, scheduling several short appointments instead of one long appointment.*
- *Above all, do not treat patients with special needs in a condescending manner. While they may require special accommodations, they wish to have quality dental care to maintain good oral health, just like any other patient.*

SAMPLE POLICY

Late Patients Policy

We appreciate patients’ efforts to arrive on time and prepared for dental appointments. In cases where patients are more than 30 minutes late, we will ask them to either reschedule their appointments or to wait until the patients who arrived on time are seen by the dentist. This helps us to keep our schedule running smoothly.

SAMPLE POLICY

No-Show Patients Policy

We value our patients, and appreciate them for choosing us as their dental care provider. Patients who miss their appointments or cancel their appointments with less than 24 hours notice will be charged a fee of \$50.00. This time has been reserved especially for them. Keeping their appointment helps us maintain an efficient schedule for our office and for other patients.

Office staff may wish to follow up with no-shows in case the missed appointment was for a justifiable reason, such as an illness or accident. You may also wish to send a letter to the no-show, such as the letter in Figure 8.1, placing a copy in the patient's file for future reference.

FIGURE 8.1 MISSED APPOINTMENT⁴⁸

Missed Appointment

Date

[Patient]

Street Address

City, State, Zip Code

Dear [Patient]:

We missed you at your dental appointment on [date].

We understand that sometimes things happen. Circumstances sometimes do come up that cause patients to miss appointments. But in the future, if you are going to miss an appointment, we would appreciate 24 hours advance notice. You can either call us at [office number] or e-mail us at [e-mail address] at least 24 hours before your appointment. This way we can reschedule you and give your original appointment time to another patient.

This courtesy allows us to see our patients promptly. It also helps us provide more affordable dental care for all of our patients. Please call our office today at [office number] to reschedule your appointment. Thank you for your cooperation and we look forward to seeing you.

Sincerely,

Dentist and Team

Difficult Patients

The hypochondriac. The angry patient. The know-it-all. These are only some of the types of patients that every practice dreads. While practices strive to attract and retain “ideal” patients – patients who show up on time, take an active interest in their oral health, and follow the dentist’s recommendations – sometimes it is hard to tell at first glance whether even the seemingly ideal patient will turn difficult, especially if they have been referred to you by a good patient.

Drug-Seeking Patients

Drug-seeking patients pose a threat to both the safety of your staff and patients, and the integrity of your practice. If you or your staff suspects a patient may be seeking drugs to abuse or sell, you should have a policy to deal with this scenario.

SAMPLE POLICY

Difficult Patients Policy

From time to time, we will encounter difficult patients. The best course of action in cases such as these is to keep in mind the following steps:

- 1) Keep your cool. Your calm demeanor may set the tone for the discussion and minimize flared tempers.*
- 2) Actively listen. Show the patient you are paying attention by nodding, asking questions, taking notes and repeating what has been said. Plus, by actively listening and processing what the patient has said, you reduce the chance that you will say something you may regret later.*
- 3) Put yourself in the patient’s shoes. You have no idea about your patient’s life at home, their job situation or their current financial status. These things can drastically affect mood and demeanor.*
- 4) Offer a solution, and document it. If the patient refuses the solution and later accuses you of being unfair or negligent, you have evidence that you tried to rectify the problem.*
- 5) If the situation worsens, consider speaking to the dentist or office manager and showing them your documentation. They can make a decision about whether to terminate the relationship with the patient.*

While practices strive to attract and retain “ideal” patients – patients who show up on time, take an active interest in their oral health, and follow the dentist’s recommendations – sometimes it is hard to tell at first glance whether even the seemingly ideal patient will turn difficult, especially if they have been referred to you by a good patient.

SAMPLE POLICY

Drug-Seeking Patients Policy

The safety of our staff and patients is our first priority. Unfortunately, dental practices are often targets for patients who seek drugs to abuse or sell. It is each team member's responsibility to be aware of the signs of a drug-seeking patient, and to know the process of dealing with such a patient.

Look for these characteristics if you suspect a patient is seeking drugs for an improper reason:

- *Unusual behavior in the waiting room*
- *Assertive personality, often demanding immediate action*
- *Unusual appearance – extremes of either slovenliness or being over-dressed*
- *May show unusual knowledge of controlled substances and/or gives medical history with textbook symptoms or gives evasive or vague answers to questions regarding medical history*
- *Reluctant or unwilling to provide reference information. Usually has no regular doctor and often no health insurance*
- *Will often request a specific controlled drug and is reluctant to try a different drug*
- *Generally has no interest in diagnosis – fails to keep appointments for further diagnostic tests or refuses to see another practitioner for consultation*
- *May exaggerate medical problems and/or simulate symptoms*
- *May exhibit mood disturbances, suicidal thoughts, lack of impulse control, thought disorders and/or sexual dysfunction*
- *Cutaneous signs of drug abuse – skin tracks and related scars on the neck, armpit, forearm, wrist, foot and ankle⁴⁹*

This practice never dispenses drugs just to get rid of the patient. Instead, once you are reasonably certain that a patient is seeking drugs, use your good judgment, along with the following guidelines as recommended by the US Drug Enforcement Agency:

- *Request a photo ID and place copies in the patient's file.*
- *Confirm the patient's telephone number, and his or her current address on each visit.*
- *Perform a thorough exam.*
- *Document the exam results and the questions you asked the patient.*
- *Recommend the dentist write any prescriptions for limited quantities.⁵⁰*

If a drug-seeking patient should become violent or a threat to staff and patients, call 911 immediately.

Summary

Proper patient management is a crucial part of developing and keeping an active patient base. Make patient management part of your ongoing training program by making it a focus of staff meetings and by encouraging staff to earn CE credits by taking courses on topics in patient management. When a staff member diffuses a potentially difficult situation or handles a demanding patient with aplomb, use him or her as an example of how staff should deal with challenging patients and circumstances.

By developing patient management skills in yourself and your employees, you are ensuring that patients will return to your practice not only for your clinical expertise, but also because you treat them with respect and make them feel comfortable.

Chapter 9

Safety and Security in the Workplace

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Chapter 9.

Safety and Security in the Workplace

The topic of employee safety is essential to include in your dental office policy manual. As a dentist and business owner, make it a responsibility to keep your employees informed and trained in office safety.

The purpose of this chapter is to give you general ideas and suggestions that you can adapt to your specific practice on how to communicate to your team about office safety. It should not be considered legal advice or to meet the requirements of the Bloodborne Pathogens Standard, Hazard Communication Standard or other requirements of the Occupational Safety and Health Administration (OSHA). Please consult with your legal advisor and also see existing ADA publications for more detailed discussions of specific OSHA requirements.

Learning Objectives

- **Develop a safety program that encompasses OSHA's general guidelines and objectives**
- **Discuss OSHA's Bloodborne Pathogens Standard, Hazard Communication Standard and Emergency Action Plan policies**
- **Be familiar with OSHA's Ionizing Radiography Standard, and how it applies to patients and staff**
- **Prepare staff for natural disasters in your area.**
- **Know and post OSHA's required posted notices**

A comprehensive guide to hazard communication, infection control and medical waste disposal is the *ADA's Regulatory Compliance Manual and Update Service*. Another resource you may consider is the *ADA's OSHA Training for Dental Professionals*. Both are available from the ADA Catalog at 1-800-947-4746, or www.adacatalog.org.

General Workplace Safety

The Occupational Safety and Health Act (the Act) was passed in 1970 to ensure, as much as possible, safe working conditions for workers in the United States. OSHA has developed non-binding guidelines to help employers create safety programs for the office. These guidelines reflect a three-step process:

1. Conduct a worksite analysis of the workplace.
2. Develop policies for hazard prevention and control.
3. Train and educate staff.

Take note that OSHA can conduct random inspections of any worksite and may impose stiff fines if an employer is in violation of the act, although—as a practical matter—OSHA usually only inspects dental offices when there is a complaint of a possible violation. Develop incentives to help train employees in office safety. For example, create safety awareness materials such as brochures, posters, and flyers; conduct safety inspections frequently; and recognize and reward employees for maintaining a safe work environment. You might want to establish a team who can help develop a safety program, as well

as a budget to aid in the planning and employee training process of the safety program. Designate someone to act as the office and safety (OSHA) compliance manager. Send appropriate personnel to off-site training programs. Establish a chain of command for your safety program by identifying which employees will have the authority to make decisions in the event of an emergency.

For more information, visit the OSHA website, www.osha.gov, which has a wealth of information on safety programs, including emergency planning.

Listed below are general guidelines and objectives to include in your own office safety program:

- **Maintain regulatory compliance.** Make it your responsibility—and your office manager’s—to stay current and compliant with the Occupational Safety and Health Act, the Americans with Disabilities Act, and other legal requirements.
- **Promote and build a safe workplace.** Train your employees in workplace safety. Make sure your employees can identify and eliminate workplace hazards. Train new hires before they begin work. Identify employees with skills that may be needed in an emergency (i.e., medical, engineering, foreign language communications).
- **Meet with outside groups.** Meet with government agencies, community organizations and utilities to obtain information to develop your own safety program. Groups that could be helpful include fire and police departments; local, state, or national safety councils; planning commissions; utility companies; planning commissions; neighboring businesses; American Red Cross; and the National Weather Service, among others.
- **Promote and encourage good health.** Offer your employees comprehensive health screenings for blood pressure, cancer, obesity, smoking or substance abuse; healthcare perks such as flu shots and dental care; and techniques and information about stress management, exercise and other behavior modifications.
- **Implement extra security measures.** Go the extra mile to protect your dental office by upgrading your security systems or implementing new ones. Use security control for parking lots, garages and lobby entrances.
- **Build and design for security.** Consult with an architect or security expert to maximize the security for your dental office space, such as design elements to discourage intruders.
- **Update and revise your workplace safety program as needed.** Update and maintain an ongoing workplace safety program. In addition to an annual review, evaluate and modify the program when policies and procedures change, after each emergency, when personnel or their responsibilities change, and when the layout or design of the facility changes.

Complying with OSHA Standards Policy

Under OSHA regulations, employers must comply with the Act and comply with specific standards to provide a place of employment deemed to be free from recognized hazards to workers. Employers must see that employees comply with all occupational safety and health standards issued by OSHA that apply to their own actions and conduct on the job.

Employers must see that employees comply with all occupational safety and health standards issued by OSHA that apply to their own actions and conduct on the job.

Bloodborne Pathogens Standard Policy

Your employee office manual and handbook should include your office policies on the basic requirements of OSHA's Bloodborne Pathogens Standard. Please note, however, that a brief description of your procedures in the manual does not replace your office's Exposure Control Plan required by OSHA. For more information on OSHA's Bloodborne Pathogens Standard, visit the OSHA website at www.osha.gov/OshDoc/data_BloodborneFacts/bbfact01.pdf.

Although the risk of HIV exposure is lower than the risk of contracting hepatitis B, there are additional procedures for cases of HIV exposure. They can be viewed at www.cdc.gov/mmwr/preview/mmwrhtml/rr5409a1.htm.

SAMPLE POLICY

Complying with OSHA Standards Policy

This practice is concerned about the safety of its employees, and is dedicated to meeting OSHA standards for the dental workplace to the best of our abilities. Every employee is expected to contribute his or her best efforts to making our dental practice safe for employees and patients. Employees are encouraged to bring to the dentist's attention any concerns they may have about OSHA because safety is extremely important to this office.

Employees who notify the dentist or office manager of safety concerns are protected from retaliation under the Act, as well as a number of other laws that protect workers against retaliation for complaining to their employers, OSHA, or other government agencies.

Not following office safety procedures is considered in this practice to be cause for disciplinary action, up to and including termination.

SAMPLE POLICY

Bloodborne Pathogens Standard Policy

This practice believes that OSHA's Bloodborne Pathogens Standard is an integral part of keeping both staff and patients safe. We require that staff adhere to this safety standard. Not following office safety procedures is considered in this practice as cause for disciplinary action, up to and including termination.

Listed below are our office policies on the basic requirements of OSHA's Bloodborne Pathogens Standard. For further information, please refer to the Exposure Control Plan of this practice.

Exposure Control Plan. *This office has a written Exposure Control Plan on file that is accessible to employees by contacting the OSHA compliance manager. It is reviewed and updated at least once a year or whenever changes are made in procedures that affect occupational exposure. The Exposure Control Plan addresses the following topics:*

- *When and how employees are trained*
- *How medical and training records are maintained and who is allowed to access them*
- *Exposure determination*
- *Protocol for post-exposure evaluation and follow-up*
- *Procedure for evaluating circumstances surrounding an exposure incident.*

Methods. *Methods of compliance include the following:*

- **Standard precautions.** *Standard precautions is an infection control approach where all human blood and certain body fluids, including saliva in dental procedures, from all patients are treated as if they were infectious for HBV, HIV and other bloodborne pathogens. Application of standard precautions reduces the risk of transmission of bloodborne pathogens.*
- **Engineering controls.** *Engineering controls isolate or remove a hazard from the workplace. Examples include a sharps container, safer needle devices, rubber dams and high-volume evacuators.*
- **Work practice controls.** *Work practice controls reduce the likelihood that an employee will be exposed by changing the way a task is performed. An example is proper hand washing techniques.*
- **Personal protective equipment (PPE).** *PPE helps protect dental staff from infection in the dental laboratory office. These include gloves, gowns, lab coats and face masks, among other items.*
- **Housekeeping.** *Housekeeping refers to the cleaning and decontamination of all equipment and environmental and work surfaces after contact with blood or other potentially infectious materials. This includes contaminated work surfaces, bins, pails, cans and other receptacles intended for reuse.*

Hepatitis B Vaccination. *The hepatitis B vaccination is made available at no cost to all employees who are at risk for occupational exposure. The first dose will be administered within 10 working days of your assignment to a job that may involve occupational exposure. If you decline to be vaccinated, you must sign a copy of our informed declination form. If you were previously vaccinated, you will be asked to document that fact. This information will be kept in your confidential medical record.*

Post-Exposure Evaluation and Follow-Up Procedures. An “exposure incident” is defined by the Bloodborne Pathogens Standard as “a specific eye, mouth, other mucous membrane, non-intact skin or parenteral contact with blood or other potentially infectious materials that results from performance of the employee’s duties.”

If you have had an exposure incident, report the exposure immediately to the office compliance manager. The following steps will then be taken:

- The practice will arrange for a confidential post-exposure evaluation and follow-up services by a licensed healthcare professional at no cost to the employee.
- The employee will be offered any medically indicated prophylaxis recommended by the U.S. Public Health Service.
- Within 15 days after the evaluation has been completed, the employer will obtain from the healthcare professional a written opinion stating that the employee has been informed of the results of the evaluation and any medical conditions that may require further evaluation and treatment.
- The employee will be given a copy of the opinion, and the original will be kept in the employee’s confidential medical record.
- The circumstances of the exposure incident will be reviewed to determine if the procedures, protocols and/or training need to be revised to prevent the incident from happening again.

Training. This practice provides training during work hours and at no cost to employees with risk of occupational exposure. The training will begin before the employee starts work involving occupational risk and annually thereafter. The training will cover such topics as the Bloodborne Pathogen Standards, symptoms of bloodborne diseases, modes of transmission, and use of standard precautions and personal protective equipment.

Medical Records. This practice maintains accurate employee medical records. Records include:

- The employee’s name and Social Security number
- A copy of the employee’s hepatitis B vaccination status
- Any of the following that apply:
 - Exposure incident report
 - Written opinion of a health care professional
 - Form refusing hepatitis B vaccination
 - Form refusing post-exposure evaluation and follow-up (not required by OSHA, but highly recommended)

Records will be kept confidential and will not be disclosed or reported without the employee’s express written consent to any person within or outside the workplace except as required by law.

Figure 9.1 shows a consent form for employees who receive the Hepatitis B vaccine.

Figure 9.2 shows a form for employees who decline the Hepatitis B vaccine. Both forms, as applicable, should be signed, dated and kept in the employee's file.

FIGURE 9.1 CONSENT FORM: HEPATITIS B VACCINE

Consent Form: Hepatitis B Vaccine

I have received information from the (practice name) dental practice about hepatitis B and the hepatitis B vaccine. I understand the benefits, risks and possible side effects of the vaccine. I have been given the opportunity to ask questions. I understand that, although the vaccine probably will grant immunity to hepatitis B, there is no guarantee of immunity or freedom from adverse side effects.

- ☐ I have been tested for immunity. I am already immune to hepatitis B.
- ☐ I choose to receive the hepatitis B vaccine. I am not pregnant or nursing a baby.
- ☐ I choose not to be vaccinated at this time. [If this box is checked, the following declination form must be signed.]

Signature _____ Date _____

FIGURE 9.2 DECLINATION FORM: HEPATITIS B VACCINE

Declination Form: Hepatitis B Vaccine

I understand that due to my occupational exposure to blood or other potentially infectious materials, I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself.

However, I decline hepatitis B vaccination at this time. I understand by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me.

Signature _____ Date _____

Hazard Communication Standard Policy

A written Hazard Communication Program as required by OSHA should be on file in your practice and available for employee reference. Among other things, the Program:

- Lists all hazardous chemicals known to be present in the office
- Describes the labeling system that warns employees against chemical hazards

- Includes Material Safety Data Sheets (MSDS) for each hazardous chemical known to be present in the office

Your employee handbook should include your office policies on the basic requirements of OSHA's Hazard Communication Standard. As with the Exposure Control Plan, a brief description of your procedures in the handbook does not replace the Hazard Communication Program for the practice required by OSHA.

SAMPLE POLICY

Hazard Communication Standard Policy

As part of this practice's OSHA compliance program, employees must be aware of OSHA's Hazard Communication Standard. Our office policies on the basic requirements of the Hazard Communication Standard are listed below. For further information, please refer to the written Hazard Communication Program of this practice.

Hazard Communication Program. *A written Hazard Communication Program is on file in this practice and is available to employees upon request. Please contact the OSHA compliance manager when you wish to review it.*

Material Safety Data Sheets. *A Material Safety Data Sheet (MSDS) is available for each product used in this office that contains a hazardous chemical. See the office safety and health compliance officer for more information.*

List of Hazardous Chemicals. *OSHA requires that your employer or compliance manager develop a list of hazardous chemicals known to be present in your office. This list is part of your office's written hazard communication program.*

Labeling. *Products used in this practice have been labeled by the manufacturer to alert employees to hazardous chemicals in those products. Labels on covered products include:*

- *The manufacturer's name and address*
- *The identity of the hazardous chemical(s)*
- *The appropriate hazard warning*

If the product is transferred from the original container to a secondary one, the secondary container must be labeled with:

- *The product name*
- *Information about the identity of the hazardous chemical(s)*
- *Appropriate hazard warnings transferred to the secondary container*

Products transferred for immediate use are exempt from this standard.

Exemptions. *This standard does not cover finished articles that do not, under normal use, release a hazardous chemical. Examples include dental chairs, pencils, photocopy machines, etc. Consumer products and drugs in solid, final form are exempt from OSHA requirements.*

Training. *Employees with occupational exposure to hazardous chemicals receive training and information when they start employment and when changes in tasks or procedures occur or new hazardous chemicals are introduced to the practice. The training should cover such topics as:*

- *The Hazard Communication Standard*
- *Work operations involving hazardous chemicals*
- *Detection and health hazards associated with chemicals in the workplace*
- *How employees can protect themselves against chemical hazards*

At the end of each training session, the dates and content of each training will be documented and placed in your employment file.

Emergency Action Plan Policy

Under OSHA standards, every dental practice must have an emergency action plan and a fire prevention plan. Employers with more than 10 employees must have these plans in writing, on file in the workplace, and available to employees. Employers with 10 or fewer employees may use an oral plan, but a written plan is recommended. A written record of all training and review sessions is recommended, but not required. Having a comprehensive emergency preparedness plan is the best way to minimize disruption and get your practice running as quickly as possible following a fire or other emergency.

The Emergency Action Plan (EAP) should include at a minimum:

- Procedures to report a fire or other emergency
- Designated employees who are trained to assist in the safe evacuation of other employees
- Procedures to be followed by employees who remain to operate critical plant operations before they evacuate

- Procedures for an emergency evacuation of employees, including type of evacuation and exit route assignments
- A way to account for all employees after evacuation takes place
- Procedures for employees who perform rescue or medical duties
- Names and titles of every employee from whom employees can seek more information about their duties under the EAP
- An employee alarm system with a distinctive signal for each purpose
- The review of the EAP with every employee—when the employee is initially assigned to a job; when the employee's responsibilities under the EAP change; and when the EAP itself is changed

In the case of medical emergencies, consider having at least one full-time employee besides the dentist be trained in first aid and cardiopulmonary resuscitation (CPR).

Fire Prevention Plan

Under OSHA standards, every dental practice must have a fire prevention plan. Employers with more than 10 employees must have these plans in writing, on file in the workplace and available to employees. Employers with 10 or fewer employees may use an oral plan, but a written plan is recommended. A written record of all training and review sessions is recommended, but not required.

The Fire Prevention Plan should include at a minimum:

- A list of all the major fire hazards; the proper handling and storage procedures for hazardous materials; potential ignition sources and their control; and the type of fire protection equipment necessary to control each major hazard

- Procedures to control flammable and combustible waste materials
- Procedures for regular maintenance of the safeguards on heat-producing equipment that may produce fire
- The names and job titles of employees who are responsible for maintaining equipment to prevent or control sources of ignition and fires
- The names and job titles of employees responsible for the control of fuel source hazards

For additional information about fire safety, visit the United States Fire Administration's website, www.usfa.fema.gov.

SAMPLE POLICY

Emergency Action Plan Policy

For the safety of our staff and patients, this practice has developed an emergency action plan (EAP) based on OSHA standards. We have designated employees throughout our office who are specially trained to assist in the safe evacuation of our staff and patients. Each staff member should be familiar with the emergency action plan, as well as his or her role within it. The EAP is subject to an annual review. The EAP will also be reviewed with new employees as they are hired, when an employee's responsibilities under the EAP change, and when the EAP itself is changed.

Copies of the practice's EAP are available upon request from our safety and security officer.

SAMPLE POLICY

Fire Prevention Plan Policy

In the event of a fire, this practice has a plan in place for the safety and protection of its staff and patients. Specific employees have been designated to assist with the evacuation of staff and patients should a fire occur, and the plan will be reviewed when a new employee is hired, once a year, and if the plan is changed. Copies are available upon request from the practice's safety and security officer.

Exit Routes

OSHA has extensive requirements for exit routes. Employers may wish to consult with the local fire marshal for additional guidance.

SAMPLE POLICY

Exit Routes Policy

Building safety is the responsibility of each staff member. Prevention is one of the most important tools to minimize the need for an evacuation, as well as to make evacuations for smoothly.

Here is a summary of the procedures we use to protect employees and patients in case an evacuation is necessary:

- **Building Safety.** *Building exits should remain unobstructed, easily unlocked and clearly marked. The owner/dentist will be responsible for keeping the fire detection and alarm systems and fire extinguishers in proper working order. This practice has fire/smoke alarms and fire extinguishers mounted throughout the building.*
- **Evacuation.** *If a fire breaks out in the building, employees should immediately notify the lobby security guard or pull the fire alarm located next to the stairway. The lobby personnel will set off the building alarm and notify the fire department. When the alarm sounds, all employees should exit the building quickly and safely by the stairs. Do not use the elevators, try to fight the fire, or stop to retrieve personal belongings.*

*Once employees have evacuated the building, they should gather at **[insert designated meeting place]**. A designated employee will be responsible for accounting for all employees, as well as reporting anyone missing to the fire officials. You will be allowed to return to the building as soon as the fire department has given us permission. Emergency evacuations for other reasons should follow the same procedure.*

- **Medical Emergency.** *In the case of serious medical emergency, employees should call 911 immediately and then contact the dentist. Until trained medical personnel arrive, staff members should do what is necessary to make the person comfortable. Administer CPR or first aid if you are certified. First aid supplies are available in the staff lounge for use by employees, patients, or visitors.*

Natural Disasters

Natural disasters are very real threats. Common natural disasters include, but are not limited to:

- Floods and flashfloods
- Tornadoes
- Hurricanes
- Earthquakes and aftershocks
- Tsunamis
- Landslides and mudslides
- Fires

Your dental office should include a natural disaster preparedness plan—with instructions on what to do if such an event were to occur—in its Emergency Action Plan.

Remember, different areas of the country are more susceptible to certain natural disasters than others—and some are not so obvious. For example, your dental office may be located in close proximity to a dam, and may therefore be subject to a higher risk of flooding if something should happen to the dam.

Additionally, extra care is required in offices, schools, hospitals, or any buildings in which large groups of people are concentrated in small areas.

Find out which disasters are most likely to occur in your area and seek guidance from your local government authorities and organizations, such as the Federal Emergency Management Agency, National Weather Service, National Safety Council and the American Red Cross, when developing your plan. *What To Do Before, During, and After An Emergency or Disaster: A Preparedness Toolkit for Office-Based Health Care Practices* is a resource for any practice. Reviewed by health care providers and health care system emergency managers, the American Dental Association worked with the publication's authors and the American Medical Association to ensure a universal application that includes the dental office. It's available at www.AMABookstore.com. In any emergency, always follow instructions given by local emergency management officials.

SAMPLE POLICY

Natural Disasters Policy

*In the event of a natural disaster, staff should be prepared if one does occur. The best way to prepare for a natural disaster is to be ready. The Red Cross recommends the following steps to be ready for any disaster, which we have adapted for the purposes of this practice:*⁵¹

- *We know what emergencies or disasters are most likely to occur in our community.*
- *We have an office disaster plan and practice it.*
- *We have an emergency preparedness kit and know its location.*
- *We have at least one member of the practice trained in first aid and CPR/AED.*
- *We take action to help our community prepare.*

Should a natural disaster strike, take into account any children, pregnant women, elderly people, or other patients or staff who may require special assistance.

*If there is time, the office manager should also coordinate the following activities to ensure the preservation of office records and equipment. **PLEASE NOTE: Human life is far more valuable than any practice property.** If immediate evacuation is required, do not put yourself, other staff, or patients in harm's way to complete the tasks below.*⁵²

1) Preserve History

- *Perform a last-minute backup of computer data.*
- *If you cannot remove your computer, unplug it, wrap it securely in heavy duty plastic and elevate it.*
- *Secure the appointment book and take it with you.*
- *Cover all filing cabinets and file shelving with plastic tarps and secure with duct tape as best you can.*
- *Protect x-rays, photos and dental molds as much as possible. Pay particular attention to those items that are susceptible to water, sunlight and temperature extremes.*
- *Remove irreplaceable mementos such as original certificates and licenses.*

2) Protect Equipment

- *Lock up and secure any industrial or medical device that contains radioactive material.*
- *Disconnect all electrical equipment – including medical equipment, appliances, lamps and office machines. Secure them in plastic as best you can.*
- *Wrap examination chairs with heavy plastic. If you are in a flood-prone area, elevate furniture or – if possible – move pieces to a higher floor.*
- *Bundle instruments in paper, secure them with tape and place them in drawers or storage cabinets.*

3) Secure the Landscape

- *Remove portable signs and landscape ornaments from the yard and parking areas.*
- *Roll up canvas awnings and secure them with vinyl rope or clothesline.*
- *Deactivate automatic sprinkler systems.*

4) Secure Structure

- *Deploy hurricane shutters or board up your windows.*
- *If possible, cut off valves that control water supplies. Consult your local natural gas supplier for directions on what to do with applicable control devices.*
- *Lock interior doors.*
- *Post contact information on exterior doors. If you do not have a waterproof sign, wrap it in plastic and tape or nail it in an easy-to-see location.*

For more specific disaster situations, we will follow the steps outlined below:

Floods and Flash Floods

- *Stay informed by listening to area radio and television stations for possible flood warnings and reports of any flooding in progress. The National Weather Service (NWS) is a reliable resource.*
- *Be prepared to evacuate immediately.*

- *When you hear of a flood or flash flood warning, seek out higher ground and remain there until it is safe to return.*
- *Stay away from floodwaters. According to the American Red Cross, six inches of swiftly moving water can sweep you off your feet. If you come to swiftly moving water that is above your ankles, turn around and go the other way.*
- *If possible, the dentist or building owner should turn off all equipment from the main power switch.*
- *Staff and patients should stay clear of downed power lines and electrical wires during a flood.*
- *Account for all staff and patients.*
- *Be prepared to abandon the building if necessary or if requested to do so by authorities. Avoid contaminated flood water.*

Tornadoes

- *Know the difference between a “tornado watch” and a “tornado warning.” A “tornado watch” means conditions are favorable for the development of tornadoes in and around the watch area. A “tornado warning” means a tornado has been sighted or indicated by weather radar, and you should evacuate immediately.*
- *Move away from windows and glass doorways.*
- *Do not wait until you see the tornado to evacuate.*
- *The dental team can offer assistance by escorting patients to the basement or a reinforced area in the middle of the building. If you are unable to evacuate, take refuge in a small interior room, closet, or hallway on the lowest level and lie under a table or other sturdy object.*
- *If no underground shelter or safe room is available, a small, windowless interior room or hallway on the lowest level of a sturdy building is the safest alternative.*
- *Cover yourselves in blankets or towels for protection from flying glass and debris.*
- *Protect your head and make yourself as small a target as possible by crouching down.*
- *Use stairs instead of elevators; if the power fails, you could become trapped in an elevator.*
- *After the tornado is over, account for all patients and staff.*

Hurricanes

- *Know the difference between a “hurricane watch” and a “hurricane warning.” A “hurricane watch” means that hurricane conditions are a threat within the next 48 hours. A “hurricane warning” means hurricane conditions are expected within 36 hours. Be prepared to evacuate immediately if notified.*
- *Review emergency plans and supplies.*
- *Listen to the radio or television for updates.*
- *Stock emergency kit with any items that are missing or low.*
- *Secure any items outside that may damage property during the storm.*

- Cover windows and doors with plywood or place large strips of masking tape on the windows to reduce breakage or flying glass.
- Turn off propane tanks and unplug small appliances.

Follow these recommendations by the US Center for Disease Control (CDC) if you are ordered to evacuate.⁵³

- Take only essential items with you.
- If you have time, turn off the gas, electricity and water.
- Disconnect appliances to reduce the likelihood of electrical shock when power is restored.
- Make sure your automobile's emergency kit is ready.
- Follow the designated evacuation routes—others may be blocked—and expect heavy traffic.

If you are not ordered to evacuate, the CDC recommends the following:

- Monitor the radio or television for weather conditions, if possible.
- Stay indoors until the authorities declare the storm is over.
- Do not go outside, even if the weather appears to have calmed—the calm “eye” of the storm can pass quickly, leaving you outside when strong winds resume.
- Stay away from all windows and exterior doors, seeking shelter in a bathroom or basement.
- Once the storm is over, account for all patients and staff.

Earthquakes

- If an earthquake strikes, take cover and assist patients under a desk or heavy table. Move as little as possible. If you cannot take cover under a desk or table, move to an inner corner or doorway.
- Stay away from windows, glass panels and mirrors, hanging objects, doors that could swing open and large furniture that could fall.
- Shield your head from falling debris and broken glass. Windows and glass, even pictures on the wall, can become hazardous during an earthquake.
- If the power goes out, use a battery-operated flashlight. Avoid lighting matches or lighters. If there is a gas leak, there could be an explosion.
- If you are in a high-rise building, stay away from any windows or outside walls.
- Do not use elevators – use the stairs instead.
- Remember that earthquakes can demolish buildings, interrupt electrical and phone service and rupture gas lines, creating fire hazards.
- Stay indoors until the shaking stops and you can safely exit.
- Account for all staff and patients.
- Be mindful of aftershocks.

- *Remember that sometimes fire alarms and sprinkler systems will activate during an earthquake even though there is no fire.*
- *After the shaking stops, clean up spills on the floor to prevent falls or other injuries.*

Tsunamis

- *Know the signs of a tsunami. Tsunamis often occur as a result of earthquakes in coastal regions. Signs of a tsunami include a strong earthquake lasting 20 seconds or more, as well as a noticeable rapid rise or fall in coastal waters.*
- *Protect yourself from the earthquake by moving under a sturdy desk or table until the quaking stops.*
- *Once the quaking stops, account for patients and staff and move quickly away from the coast and to higher ground.*
- *Be aware of the height of the office above sea level and the distance of the practice from the coast. These may be factors in evacuation orders.*
- *Plan and practice an evacuation route from the practice to higher ground.*

Landslides and Mudslides

The CDC recommends the following protocol in case there is the threat of a landslide:⁵⁴

During intense storms and rainfall:

- *Stay informed. Listen to the radio or watch TV for warnings about intense rainfall, and for information and instructions.*
- *Be aware of any sudden increase or decrease in water level on a stream or creek that might indicate debris flow upstream. A trickle of flowing mud may precede a larger flow.*
- *Look for tilted trees, telephone poles, fences, or walls, and for new holes or bare spots on hillsides.*
- *Listen for rumbling sounds that might indicate an approaching landslide or mudflow.*

If landslide or debris flow danger is imminent, quickly move away from the path of the slide. Getting out of the path of a debris flow is your best protection. Move to the nearest high ground in a direction away from the path. If rocks and debris are approaching, run for the nearest shelter and take cover (if possible, under a desk, table, or other piece of sturdy furniture).

Building Security

Because your employees value a safe working environment, your employee handbook may include a few guidelines to help provide security for patients and employees. The sample policy below lists some concerns that you may wish to address:

SAMPLE POLICY

Building Security Policy

Everyone can help to ensure the personal safety of staff and patients. The policies below are only some of the ways we can make our building a safe environment for those who work here and those who seek dental treatment.

After Hours Access

From time to time, it may be necessary for staff to work before or after patient treatment hours. If you find yourself in this situation, please notify the office manager when you will be arriving or departing so that he or she will be aware when you will be in the building, adjust any alarm systems as necessary, and notify others, such as security guards and cleaning crews.

Parking Area Safety

For your own safety, please be aware of your surroundings when you are in the parking facilities, especially early in the morning or at night when there are fewer people around. If possible, walk in groups of two or three to your cars to ensure that everyone makes it to their cars safely.

Should you see any suspicious people or activity in the parking facilities, do not hesitate to call 911.

Allowing People Entry Into the Building

Entry to this practice is controlled by front desk staff. These staff members can buzz people in as they come into view. Access to the building can be denied at their discretion.

Alarms

This practice is protected by an alarm system. Should you unintentionally activate the alarm or need to disarm it for a specific reason, please contact the dentist or office manager who have the alarm codes and are familiar with the deactivation process.

Controlling a Rowdy or Violent Patient

Should you feel threatened by a rowdy or violent patient, do not hesitate to call 911. The safety of our staff and patients is our first priority. If you feel threatened or intimidated by a patient, use your best judgment in determining whether the authorities should be called.

Suspicious People or Activity

If you see suspicious or unusual activity on the premises, which includes the waiting area, treatment rooms, parking facilities, and premises around this practice, report it as soon as possible to the dentist or dental office manager who will determine the best course of action. If you feel immediately threatened, call 911.

Contingency Plan

While protecting human life should be your first priority during a disaster, HIPAA requires that covered entities have a plan in place to safeguard the electronic systems that contain electronic protected health information (ePHI). Train staff to implement the plan as needed.

For more detailed information about HIPAA compliance, please see the ADA publication, *The ADA Practical Guide to HIPAA Compliance*, available by visiting www.adacatalog.org or by calling 1-8000-947-4746.

SAMPLE POLICY

Contingency Plan Policy

During a disaster, the first priority of this practice is protecting human life. However, we also have a responsibility to protect our patients' electronic protected health information (ePHI), and will do so by following the policies and procedures of our contingency plan, most of which can be prepared in advance of any possible disaster. This is especially important so that patients and medical personnel have access to this information in the wake of a disaster. Our dental practice workforce members are responsible for complying with the practice's contingency plan policies and procedures.

The practice Security Official will be in charge of developing and maintaining this plan. From time to time, he or she may ask for staff assistance. Should you have further questions or wish to see a copy of our practice's contingency plan, please contact the practice's Security Official.

The Security Official will undertake the following tasks:

- Developing and implementing policies and procedures for responding to emergencies that may impair our practice's electronic systems containing electronic protected health information.*
- Implementing policies and procedures for establishing and implementing a data backup plan that creates and maintains up-to-date exact copies of our practice's ePHI.*
- Implementing policies and procedures for establishing and implementing a disaster recovery plan for restoring business operations and electronic systems that contain ePHI should a disaster occur.*
- Establishing (and implementing as needed) procedures to enable continuation of critical business processes for protection of the security of electronic protected health information while operating in emergency mode.*
- Implementing policies and procedures for testing and revising our practice's contingency plans, including the practice's data backup, disaster recovery, and emergency mode operation plans.⁵⁵*

Ergonomics Policy

Ergonomics—the science that seeks to adapt working conditions to the worker—is a subject of ongoing research, and has special applications to the dental profession.

Dentistry is a very exacting profession. All members of the delivery team assume precise postures as they deliver high-quality care. As in any workplace, care must be taken to prevent injury.

Dental professionals might develop musculo-skeletal disorders or MSDs (disorders of the nerves, muscles, ligaments, tendons, joints, cartilage, and spinal discs) from a variety of factors, many of which are unrelated to work. Nevertheless, steps may be taken to enhance comfort and minimize aggravation of MSDs, whether work-related or not.

MSDs can occur in the hands and wrists, elbows, neck, shoulder, and back. Dental assistants experiencing what they believe might be MSDs should report them to the dentist.

Risk factors often cited in the development of MSDs include:

- The number of repetitions
- The force applied
- Mechanical stress
- Posture
- Vibration
- Temperature

Work at a computer in the dental office may also raise some ergonomic concerns. For additional information and guidelines and tools to help employees who work at computer workstations, visit www.osha.gov.

Radiography

The aim of dental radiographs is to obtain the desired diagnostic information with minimum radiation exposure to the patient, dental personnel and public. Therefore, it is important that staff be aware of the ways to effectively take a radiograph in the safest possible way for them and for their patients.

The OSHA Ionizing Radiation Standard requires the following:

- A survey of the types of radiation used in the facility, including x-rays
- Restricted areas to limit employee exposures
- Employees working in restricted areas must wear personal radiation monitors such as film badges or pocket dosimeters
- Rooms and equipment may need to be labeled and equipped with caution signs.

In addition to the recommendations below, dentists should be aware of applicable federal and state regulations.

SAMPLE POLICY

Ergonomics Policy

Because we value employee safety, this practice follows the principles of ergonomics and motion economy in our daily routine of dental care of patients. This practice also works to seek solutions to enhance comfort and minimize risk.

If you are experiencing what you think might be musculo-skeletal disorders (MSDs), report them to the dentist or office manager immediately.

SAMPLE POLICY

Radiography Policy

Dental radiation is a safe and effective diagnostic tool. This dental practice follows recommendations of the ADA Council on Scientific Affairs to ensure that both staff and patients are exposed to minimal radiation:

Operator Protection:

- *Train personnel on recommended radiographic practices.*
- *Wear appropriate personal protective equipment (i.e., gloves and gown).*
- *Do not hold films in place for patients.*
- *Unless protective shielding is provided for the operator, the operator should stand at least six feet from the beam.*
- *Proper radiologic darkroom practices should be followed. These include (among others) maintaining a darkroom with adequate ventilation, avoiding repeated skin contact with processing chemicals, and avoiding microbial contamination in handling film packets.*

Patient Protection:

- *Confirm that x-ray units are properly collimated.*
- *Leaded aprons and collars should be used on patients to minimize any radiation exposure.*
- *Beam infiltration should comply with federal and state regulations.*
- *Heat-sterilize non-disposable instruments/devices between patients or use disposable ones. Digital sensors that cannot be heat sterilized or immersed in liquid should be covered with disposable FDA-cleared barriers and cleaned with an appropriate disinfectant between patients (refer to manufacturer instructions). Disinfect or cover work surfaces and other contact areas between patients.*
- *A quality assurance program should be established to ensure high-quality radiographic images. More information on this particular subject is available by writing to the Center for Devices and Radiological Health, 5600 Fishers Lane, Rockville, MD 20857.*

The aim of dental radiographs is to obtain the desired diagnostic information with minimum radiation exposure to the patient, dental personnel and public. Therefore, it is important that staff be aware of the ways to effectively take a radiograph in the safest possible way for them and for their patients.

Posted Notices

Federal law requires employers to post certain notices in a conspicuous place, such as on a bulletin board in the employee lounge, to inform employees of their protection and rights under the law.

Your state, county or city may have posting requirements as well. For more information and free posters, check with your state labor department, your city human rights office and the two agencies listed below.

The U. S. Equal Employment Opportunity Commission

U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507
202-663-4900
www.eeoc.gov

U.S. Department of Labor

200 Constitution Ave., N.W.
Washington, D.C. 20210
1-886-4-USA-DOL
www.dol.gov

Listed below are notices you may be required to post in your dental practice.

- OSHA Publication 3165—"Job Safety and Health" poster. Available at www.osha.gov/Publications/poster.html.
- OSHA Form 300—Summary of recordable occupational injuries and illnesses posted between February 1 and March 1 annually. Available at www.osha.gov/recordkeeping/new-osh300form1-1-04.pdf.

In states covered by federal OSHA, dental offices do not need to maintain this record. Check your state's requirements.

- Employment Discrimination—"Equal Employment Opportunity is the Law" poster. (Dental offices with 15 or more employees.) Available at www.dol.gov/ofccp/regs/compliance/posters/ofccpost.htm.
- Fair Labor Standards Act Minimum Wage Poster (Child Labor/Overtime)—Wage-Hour Poster 1088. Available at www.dol.gov/whd/regs/compliance/posters/flsa.htm.
- Polygraph Protection—Wage-Hour Poster 1462. Available at www.dol.gov/oasam/programs/osdbu/eppac.pdf.

Summary

The ability to respond effectively to emergency situations is helped by providing your staff with comprehensive information and planning. Consider allocating time during staff meetings to review certain sections of your contingency plan or to review OSHA standards. Make sure staff is familiar with possible disasters that could occur in your area. Offer CPR certification classes for staff.

Everyone can play an active role in office safety by being well acquainted with office policies and the contingency, identifying and eliminating workplace hazards and responding calmly and efficiently to emergencies.

References

- ¹ Light, Joe. Recruiters Rethink Online Playbook. Wall Street Journal. Available at www.online.wsj.com/article/SB10001424052748704307404576080492613858846.html. Accessed January 18, 2011.
- ² Final regulations under the AwDAAA were published in the Federal Register on March 25, 2011. Information about the regulations is available at the U.S. Equal Employment Opportunity Commission web page entitled *The Americans with Disabilities Act Amendments Act of 2008*. Available at www.eeoc.gov/laws/statutes/adaaa_info.cfm. Accessed April 5, 2011.
- ³ According to the EEOC, the AwDAAA regulations define a “physical or mental impairment” as “any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. They also cover any mental or psychological disorder, such as intellectual disability (formerly termed mental retardation), organic brain syndrome, emotional or mental illness, and specific learning disabilities. . . . The definition of “impairment” in the new regulations is almost identical to the definition in EEOC’s original [AwDA] regulations, except that the immune and circulatory systems have been added to the list of body systems that may be affected by an impairment, because these systems are specifically mentioned in the [AwDAAA’s] examples of major bodily functions.” EEOC, *Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008*. Available at www.eeoc.gov/laws/regulations/ada_qa_final_rule.cfm. Accessed April 5, 2011.
- ⁴ The EEOC has stated that “[t]he final [AwDAAA] regulations provide a non-exhaustive list of examples of major life activities: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. . . . The final regulations also state that major life activities include the operation of *major bodily functions*, including functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. . . . [T]he final regulations [also] state that major bodily functions include the operation of an individual organ within a body system (e.g., the operation of the kidney, liver, or pancreas).” EEOC, *Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008*. Available at www.eeoc.gov/laws/regulations/ada_qa_final_rule.cfm. Accessed April 5, 2011.
- ⁵ U.S. Equal Opportunity Commission. Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008. Available at www.eeoc.gov/laws/regulations/ada_qa_final_rule.cfm. Accessed April 5, 2011.
- ⁶ U.S. Equal Opportunity Commission. Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008. Available at www.eeoc.gov/laws/regulations/ada_qa_final_rule.cfm. Accessed April 5, 2011.
- ⁷ U.S. Equal Opportunity Commission. Job Applicants and the Americans with Disabilities Act. Available at www.eeoc.gov/facts/jobapplicant.html. Accessed April 5, 2011.
- ⁸ Id.
- ⁹ U.S. Equal Opportunity Commission. Job Applicants and the Americans with Disabilities Act. Available at www.eeoc.gov/facts/jobapplicant.html. Accessed April 5, 2011.
- ¹⁰ Id.
- ¹¹ Id.
- ¹² Putzier, John, and David J. Baker. *The Everything HR Kit: a Complete Guide to Attracting, Retaining, and Motivating High-Performance Employees*. New York: American Management Association, 2011. Print. Used with permission.
- ¹³ Ericksen, Bent and Tim Twigg. Reference and Background Checks When Hiring Employees. Dental Economics. Vol. 98, Issue 3. March 8, 2008. Available at www.dentaleconomics.com/dentaleconomics/en-us/index/display/article-display.articles.dental-economics.volume-98.issue-3.columns.focus-on-human-resources.reference-and-background-checkswhen-hiring-employees.html. Accessed February 21, 2011.

- ¹⁴ Whether an associate dentist is considered an employee or independent contractor may affect whether a non-compete agreement that takes effect upon termination of the individual's tenure with the practice is enforceable. Non-compete agreements are addressed in Chapter 7, Terminating Employees.
- ¹⁵ U.S. Substance Abuse and Mental Health Service Administration. Developing a Drug-Free Workplace Policy. Available at www.workplace.samhsa.gov/WPWorkit/pdf/developing_a_drug_free_workplace_policy_br.pdf. Accessed February 15, 2011.
- ¹⁶ See U.S. Department of Health and Human Services, *Guidance Specifying the Technologies and Methodologies that Render Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals*, published in the Federal Register on August, 24, 2009 at page 42742. Available at www.edocket.access.gpo.gov/2009/pdf/E9-20169.pdf.
- ¹⁷ American Dental Association. Dental Records. Available at www.ada.org/sections/professionalResources/pdfs/dentalpractice_dental_records.pdf. Accessed February 15, 2011.
- ¹⁸ U.S. Department of Health and Human Services. Guidance Specifying the Technologies and Methodologies that Render Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals. Federal Register Vol. 74, No. 162, Monday August 24, 2009, pages 42742-42743. In general, electronic protected health information can only be secured via encryption as specified in the *Guidance*. Paper, film, or other hard copy media can only be secured by shredding or destruction such that it cannot be read or reconstructed. Electronic media can only be secured by being cleared, purged, or destroyed as specified in the *Guidance*. Redaction is **not** a means of securing protected health information.
- ¹⁹ Keep in mind that under HIPAA certain "business records" such as patient accounts may be protected health information.
- ²⁰ U.S. Equal Employment Opportunity Commission. Harassment. Available at www.eeoc.gov/laws/practices/harassment.cfm. Accessed February 15, 2011.
- ²¹ Elliot, P.P. Violence in Healthcare: What Nurse Managers Need to Know. *Nursing Management*. 1997; 28 (12): 38-41.
- ²² Family Violence Prevention Fund. Seven Reasons Employers Should Address Domestic Violence. Available at www.endabuse.org/content/features/detail/1013. Accessed February 24, 2011.
- ²³ Lipscomb J, Silverstein B, Slavin TJ, Cody E, Jenkins L. Perspectives on Legal Strategies to Prevent Workplace Violence. *J Law Med Ethics*. 2002;30 (3 Suppl): 166-172.
- ²⁴ Reprinted from Yick Flanagan, A. Violence in the Healthcare Workplace. Sacramento CA:CME Resource. 2009. Used with permission from CME Resource.
- ²⁵ Flanagan 17
- ²⁶ For information about the I-9 form, visit the website of the U.S. Citizen and Immigration Services (USCIS) at www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=31b3ab0a43b5d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=7d316c0b4c3bf110VgnVCM1000004718190aRCRD.
- ²⁷ For information about USCIS, visit www.uscis.gov/portal/site/uscis.
- ²⁸ See Chapter 3 for more information on data security.
- ²⁹ Namie, Gary. 2010 US Workplace Bullying Survey. 2010. Workplace Bullying Institute. Available at www.workplacebullying.org/docs/WBI_2010_Natl_Survey.pdf. Accessed March 9, 2011.
- ³⁰ MetLife. 8th Annual MetLife Study of Employee Benefits Trends. 2010. Available at www.metlife.com/assets/institutional/services/insights-and-tools/ebts/Employee-Benefits-Trends-Study.pdf. Accessed March 15, 2011.
- ³¹ American Dental Association. 2009 Survey of Dental Practice: Employment of Dental Practice Personnel. 2010.
- ³² U.S. Equal Employment Opportunity Commission. EEOC Compliance Manual, Section 12 *Religious Discrimination*, available at www.eeoc.gov/policy/docs/religion.html#_Toc203359483. Accessed April 13, 2011.

- ³³ See for example American Dental Association, “What Are the Ethical Issues to Consider When Deciding Whether to Treat my Staff?” *Journal of the American Dental Association*, Vol. 139, No 4, pages 490–491 (2008). Available at www.jada.ada.org/cgi/content/full/139/4/490.
- ³⁴ Laws designed to protect Medicare and Medicaid from fraud and abuse can apply whether or not a dental practice provides covered services or submits claims to federal health care programs. The Office of Inspector General (OIG) for the U.S. Department of Health & Human Services has created the educational materials listed below to assist in teaching health care providers about the federal fraud and abuse laws. Visit www.oig.hhs.gov/fraud/PhysicianEducation. Many states have also enacted fraud and abuse laws.
- ³⁵ Drevenstedt, Linda. Staff Motivation – Myth or Magic? *Dental Economics*. Vol. 98, Issue 6. June 1, 2008. Available at www.dentaleconomics.com/index/display/article-display/332796/articles/dental-economics/volume-98/issue-6/features/staff-motivation-mdash-myth-or-magic.html. Accessed on April 19, 2011.
- ³⁶ Craemer, Mark. 6 Tips for Better Listening. *Seattle PI*. July 28, 2010. Available at www.blog.seattlepi.com/workplacewrangler/2010/07/28/six-tips-for-better-listening. Accessed on April 13, 2011.
- ³⁷ Gallo, Carmine. Employee Motivation the Ritz-Carlton Way. *Bloomberg Business Week*. February 29, 2008. Available at www.businessweek.com/smallbiz/content/feb2008/sb20080229_347490.htm. Accessed on April 13, 2011.
- ³⁸ Bregman, Jonathan, DDS, FAGD. Write It Down and the Rest Will Follow! *Dental Economics*. December 1, 2008. Available at www.dentaleconomics.com/index/display/article-display/348444/articles/dental-economics/volume-98/issue-12/columns/quality-care-for-oral-cancer/write-it-down-and-the-rest-will-follow.html. Accessed on April 13, 2011.
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- ⁴⁰ Ajilon Professional Staffing. 10 Guidelines for Recognizing and Rewarding Employees. Available at www.ajilon.com/industry-insights/articles/management-advice/Pages/10-guidelines-for-recognizing-and-rewarding-employees.aspx. Accessed on April 13, 2011.
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- ⁴² Substance Abuse and Mental Health Services Administration, Office of Applied Studies (2008). Results from the 2007 National Survey on Drug Use and Health: National Findings (NSDUH Series H-34, DHHS Publication No. SMA 08-4343). Rockville, MD.
- ⁴³ Adapted from *Terminating Employment in a Dental Office*. 2009. American Dental Association, Chicago IL.
- ⁴⁴ *The ADA Practical Guide to HIPAA Compliance Privacy and Security Kit*. American Dental Association, Chicago IL. 2010.
- ⁴⁵ *Terminating Employment in the Dental Office*. American Dental Association, Chicago IL. 2009.
- ⁴⁶ American Academy of Pediatric Dentistry. Calming the Anxious Child. Chicago IL. 2011. www.aapd.org/publications/brochures/calming.asp. Accessed on May 18, 2011.
- ⁴⁷ Beavers, Kay S., DDS. Oral Health in the Elderly. University of Oklahoma Health Sciences Center College of Dentistry. 2009. Available at www.ouhsc.edu/geriatricmedicine/education/Oral_Health/Index.htm. Last accessed on May 18, 2011. Used with permission.
- ⁴⁸ Adapted from *Dental Letters Made Easy*. American Dental Association: Chicago IL. 2008.
- ⁴⁹ U.S. Department of Justice Drug Enforcement Administration. Don’t be Scammed by a Drug Abuser. Available at www.dea diversion.usdoj.gov/pubs/brochures/drugabuser.htm. Accessed on June 8, 2001.
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Appendix 1: Reading List

The ADA offers a variety of resources related to topics addressed in this book, including HIPAA and OSHA compliance, staff training and marketing your practice. These publications are available by visiting www.adacatalog.org or by calling 1-800-947-4746.

*The ADA Practical Guide to Frequently Asked Legal Questions**

This second edition provides a comprehensive listing of over 180 questions and answers that you and your dental team encounter daily. It provides plain language information on a wide array of legal topics from employment law to thorny patient issues. Includes sample forms and a CD-ROM with Microsoft Word templates. Item #L756

The ADA Practical Guide to HIPAA Compliance Privacy and Security Kit

The ADA has updated and combined its best-selling HIPAA Privacy and Security Manuals. It includes up-to-date information on HIPAA Privacy and Security regulations, including HITECH Act requirements for encryption, breach notification, business associate agreements, disclosure and use of Protected Health Information, increased compliance enforcement by the Office for Civil Rights, and significantly higher fines for non-compliance. The Privacy and Security Kit includes new sample forms, sample policies and procedures, checklists, sample risk assessment questions, and workforce training guidance. Item #J594

The ADA Practical Guide to HIPAA Training

Recent changes to federal HIPAA laws make it more important than ever to have an up-to-date, comprehensive HIPAA compliance program. This unique CD-ROM program includes two levels of training. Level 1 teaches the basics of HIPAA compliance to dental office staff. Level 2 is a more detailed module intended for managers who are developing and implementing their office's HIPAA compliance program in conjunction with the ADA Guide to HIPAA Compliance Privacy and Security Kit. Item #J596

*The ADA Guide to Internal Marketing: The Key to Dental Practice Success**

Promoting your practice just got easier with the expert advice of the ADA. With chapters devoted to cultivating referrals, developing practice newsletters and websites, and utilizing social networking profitably and responsibly, *The ADA Practical Guide to Internal Marketing* shows you how to grow your practice using tried and true standbys, as well as the newest technological innovations. It is a valuable resource for both dentists and the dental teams. Item #P080

*The ADA Practical Guide to Starting Your Dental Practice**

Start your practice right with this revised and updated practical guide from the ADA. Filled with the information you need, from furniture to finances. Get an overview of choosing how and where to open a practice; managing employees and choosing advisers; practice management software, billing and collections; marketing; and much more. Item #J044

The American Dental Association Regulatory Compliance Manual

This comprehensive OSHA resource straightens out the maze of federal regulations. CD-ROM from ADA experts covers bloodborne pathogens, hazard communication, waste management, and other regulatory issues. Delivers specifics on complying with OSHA, including how to train employees; draft an Exposure Control Plan for pathogens; implement a Hazard Communication Program; keep records of your compliance efforts; and respond appropriately if OSHA contacts you. Contains all necessary posters and documents, plus forms to edit in Microsoft Word. Includes a subscription to the annual Regulatory Compliance Update Service through 2013. Item #S696B

Associateships: A Guide for Owners and Associates

Don't hire or become an associate before reading this book! Now includes CD-ROM with document templates in Microsoft Word and Excel. Touches all the bases of associateships, including locating opportunities and candidates; how to make an associateship a win-win proposition; and options for financial arrangements. CD-ROM features sample contracts to edit in Microsoft Word, plus Excel worksheets to help with cash flow projections, break-even analysis, and determining an associate's compensation. Item #J045

*CEO Crash Course: A Dentist's Guide to Practice Leadership**

This engaging book draws parallels with the business world to show how leadership traits of CEOs translate into dental practice success. Seasoned practitioners and top practice management consultants give insight about developing and implementing leadership skills, striking a work-life balance, meeting your bottom line, resolving conflict, inspiring your team, and building a loyal base of compliant patients. Includes hundreds of ideas—find out what works in other practices and make it work for you! Item #J712

Dental Letters Made Easy

Customize dental office correspondence effortlessly with this book of almost 200 sample letters, forms, e-mails, and news releases. Clearly written in simple language, each letter is about one page in length and fully adaptable. Includes letters to patients, vendors, dental and medical colleagues, and the media. Comes with a CD-ROM of letters in Microsoft Word format for easy personalization. Item #J053

Effective Infection Control: A Training Program for Your Dental Office

Train your staff in current infection control procedures with this comprehensive 60-minute DVD and workbook. Three easy-to-manage segments offer self-paced learning that includes self-assessment checklists, goal setting worksheets, and unit review questions. With complete instructions, it is easy to navigate, offers a list of other resources, and covers principles and fundamentals of infection control; actual clinical procedures; the difference between sterilization; and disinfection. Eight hours CE credit. Item #P692

OSHA Training for Dental Professionals

Protect the health and safety of your dental team. This essential 1-hour training DVD illustrates OSHA regulations and how to comply. New edition includes 69-page workbook with full-color photos, plus updated requirements for evaluating needle devices. Covers the Bloodborne Pathogens Standard, Hazard Communications Standard, and detailed compliance steps. Checklists, quizzes, posters and forms take the guesswork out of recordkeeping. Item #P889

*Terminating Employees in the Dental Office**

Handle the difficult task of terminating employment effectively and with an understanding of the legal ramifications. Learn how to handle a crisis such as fraud or drug use; set up a system for progressive discipline; deal with employee leaves of absence; terminate an associate; and manage the mechanics of termination (includes a detailed checklist of steps). Item #P586

The Power of Customer Service: How to Create Happy, Satisfied Patients

Make your practice soar through exceptional customer service! Learn how office décor, location, your dental team's attitude, and other factors influence patients' opinions of your practice. Included are scripts for tackling thorny issues such as no-shows and insurance. Also discusses high-tech tools for customer service—practice websites, electronic newsletters, digital X-rays, and intraoral cameras—as well as tools to manage patient anxiety. Item #J052

Valuing a Practice: A Guide for Dentists

As a practice buyer or seller, this book can help save you money and time during this critical process. Covers valuation issues and methods as well as tax implications. Written by legal experts, it includes case studies, sample letters and a sample contract. Item #J060

* Available as e-books on Amazon Kindle (www.amazon.com) and Barnes and Noble Nook (www.barnesandnoble.com) e-readers.

Appendix 2: Web Resources

Listed below are resources you may find helpful for your policymaking, recruiting, hiring and training efforts.

American Bar Association

www.abanet.org

American Dental Association

www.ada.org

American Dental Association Law Article Database (members only)

www.ada.org/members/1415.aspx

American Dental Association Product Catalog

www.adacatalog.org

American Dental Association Risk Management Article Database (members only)

<https://www.ada.org/members/1416.aspx>

Americans with Disabilities Act (U.S. Department of Justice)

www.usdoj.gov/crt/ada/adahom1.htm

Child Welfare Information Gateway

www.childwelfare.gov

Copyright Office (U.S.)

www.loc.gov/copyright

Department of Justice and Federal Trade Commission Statements of Antitrust Enforcement Policy in Health Care

www.ftc.gov/reports/hith3s.htm

Drug Enforcement Administration (D.E.A.)

www.usdoj.gov/dea

Employment Law Alliance

www.employmentlawalliance.com

Employment Laws Assistance for Workers and Small Businesses (elaws)

www.dol.gov/elaws

Equal Employment Opportunity Commission (U.S.)

www.eeoc.gov

Equifax

www.equifax.com

Experian (formerly T.R.W.)

www.experian.com

Federal Trade Commission

www.ftc.gov

Federal Trade Commission for the Consumer (consumer credit issues)

www.ftc.gov/bcp/consumer.shtm

FindLaw

www.findlaw.com

Food and Drug Administration

www.fda.gov

HIPAA Medical Privacy FAQ (U.S. Office of Civil Rights)

www.hhs.gov/ocr/hipaa

Healthcare.gov (U.S. Department of Health and Human Services)

www.healthcare.gov

Health Insurance Portability and Accountability Act (HIPAA)

www.ada.org/prof/resources/topics/hipaa/index.asp

Independent Contractor Frequently Asked Questions

www.nolo.com/legal-encyclopedia/working-independent-contractor-faq-29070.html

Internal Revenue Service (U.S.)

www.irs.gov

Internal Revenue Service: IRS Explains How It Determines Whether Someone is an Employee or Independent Contractor

www.irs.gov/pub/irs-pdf/p1779.pdf

Law.com

www.law.com/index.shtml

Library of Congress

www.loc.gov

Medical Privacy – National Standards to Protect the Privacy of Personal Health Information (U.S. Department of Health and Human Services)

www.hhs.gov/ocr/hipaa

National Association of the Deaf (N.A.D.)

www.nad.org

National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank (U.S. Department of Health)

www.npdb-hipdb.hrsa.gov

Occupational Safety and Health Administration (OSHA)

www.osha.gov

Office for Civil Rights (U.S. Department of Health and Human Services)

www.hhs.gov/ocr

Small Business Administration

www.sba.gov

Transunion

www.transunion.com

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